

# **HOME INSTRUCTION PACKET**

(In order of Appearance)

- Home Instruction Fact Sheet
- Gloversville School District Policy on Home Instruction
- Part 100.10 of the Regulations of the Commissioner of Education (CR 100.10). This is the regulation governing home instruction in New York State.
- Action Steps for Home Instruction-This helps clarify parent responsibilities and school district responsibilities under CR 100/10.
- Questions and Answers on Home Instruction
- Groups of Home Instructing Parents-The names and addresses are given of home instructing parents who are willing to answer questions regarding home instruction

## HOME INSTRUCTION FACT SHEET

*Listed below are some pertinent, but not necessarily widely known facts about home instruction in New York State under Section 100.10 of the Regulations of the Commissioner of Education:*

- Students instructed at home **are not awarded a high school diploma**. A high school diploma may only be awarded to a student enrolled in a registered secondary school who has completed all program requirements set by the Regents, the school, or the district.
- Home-instructed student are **not eligible** to participate in **interscholastic sports**. Section 135.4(c)(7) of the Regulations of the Commissioner of Education, which governs interscholastic sports, directs that a participant in interscholastic sports must be enrolled in the school.
- Districts are **not** required to loan textbooks to home-instructed students. A student unstructured 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 stature, to children attending nonpublic school. However, a school district **may**, if it wishes to, provide textbooks and other materials to students instructed at home.
- Students instructed at home **may not participate in the instructional program** of the school district (exceptions are listed below). This is because the Legislature has not authorized part-time attendance.
- A district **must offer** a home instructed student with disabilities the **special education services**, as recommended on the Individualized Education Program (IEP) by the Committee on Special Education.
- A district **may, but is not obligated to**, make available to home instructed student occupational/vocational education programs and programs for the gifted available under Section 3602-c of the Education Law.
- A district **may, but is not obligated to**, allow home instructed students to participate in intramural and other school-sponsored club activities.
- State law **does not require any specific credentials** for the person(s) providing home instruction.
- Primary responsibility for determining compliance with Section 100.10 rests with the superintendent of school of the school district in which a home-instructed student resides. Section 100.10 also provides for parental appeals to the local school board of education and the Commissioner of Education.
- The **purpose** of Section **100.10** is to provide a basis for an objective **determination of substantial equivalence**. A home instruction program that adheres to the standards of Section 100.10 at each stage of the process should be deemed substantially

# HOME INSTRUCTION (HOME SCHOOLING) POLICY 8470

## 1 OF 2

### SUBJECT: HOME INSTRUCTION (HOME SCHOOLING)

From time to time, parents will choose to instruct their children at home. The School District will attempt to cooperate with parents who wish to provide home schooling for their children realizing that the child who is educated at home should receive an education in a manner consistent with an educational plan and at least substantially equivalent to that given to students of like age and attainments in the local public schools. The required subjects should be taught in a competent, systematic, and sequential manner, specifically in relation to the required courses as enumerated in Commissioner's Regulation Section 100.10.

#### **Provision of Services to Home-Instructed Students**

##### Regarding Home-Instructed Students:

They are not awarded a high school diploma. A high school diploma may only be awarded to a student enrolled in a registered secondary school who has completed all program requirements set by the Board of Regents, the school or the District.

- a) They are not eligible to participate in interscholastic sports. Commissioner's Regulations mandate that only students enrolled in the public school are allowed to participate in interscholastic sports.

Further, the School District does not permit home-instructed students to participate in such extracurricular activities.

- b) The District is not required to loan available textbooks and other materials (e.g., library materials, microscopes, computer software, movie projectors).

The District shall not provide such textbooks and other materials to the extent available to home-instructed students.

- c) The School District is not required to furnish health services.
- d) The District is not responsible for providing remedial programs.
- e) The District is *not permitted* to provide occupational and vocational Education programs *career and technical education* nor programs for the Gifted to home-instructed students.
- f) The District shall offer a home-instructed student with disabilities the special education services as addressed in the approved Individualized Education Program (IEP) by the Committee on Special Education. *However, there is no requirement that such services be provided in the student's home.* Further, the District shall conduct a census and register of students with disabilities who reside in the District in accordance with Education Law and Commissioner's Regulations.

(Continued)

**SUBJECT: HOME INSTRUCTION (HOME SCHOOLING) (Cont'd.)**

- g) Students instructed at home: shall not be allowed to use school facilities, except as provided for community organizations in Policy #3280 -- Community Use of School Facilities.

Primary responsibility for determining compliance with Commissioner's Regulations addressing home instruction rests with the Superintendent of Schools of the school district in which a home-instructed student resides.

Education Law Sections 3204, 3205, 3210(2), 3212(2), 3240-42, 3602-c, and 4402  
8 New York Code of Rules and Regulations (NYCRR) Sections 100.10, 135.4(c)(7)(ii)(b)(2),  
and 200.2(a)

Adopted: 9/9/02  
Revised: 5/3/04; 6/18/07

**SECTION 100.10 OF REGULATIONS OF THE  
COMMISSIONER OF EDUCATION**

Pursuant to sections 207, 3204, 3210, 3212 and 3234 of the Education Law

The Regulations of the Commissioner of Education are amended, effective July 1, 1988, by the addition of the new section 100.10 to read as follows:

100.10. Home Instruction.

(a) Purpose of section. The purpose of this section is to establish procedures to assist school authorities in fulfilling their responsibility under Education Law sections 3204(2) and 3210(2)(d) and in meeting their responsibility of determining the competency of the instructor and substantial equivalence of instruction being provided at home to students of compulsory school attendance age, and to assist parents who exercise their right to provide required instruction at home to such students in fulfilling their responsibilities under Education Law section 3212(2).

(b) Notice of intention to instruct at home.

(1) Except as otherwise provided in paragraphs (2) and (3) 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. In the case of the City School District of the City of New York, the school district of residence for students who, if enrolled in the public schools, would attend elementary school, intermediate school or junior high school in a community school district shall be deemed to be the community school district in which the parents reside.

(2) 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 (14) days following the commencement of home instruction within the school district.

(3) For the 1988-89 school year only, the written notice of intention to instruct at home required in paragraph (1) of this subdivision shall be due on August 1, 1988.

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

(1) Within ten (10) 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 section 100.10 of the regulations of the Commissioner of Education 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.

(2) Within four (4) weeks of the receipt of such materials, or by August fifteenth, or for the 1988-89 school year by September 15, 1988, whichever is later, the parent shall submit the completed IHIP form to the school district. The district shall provide assistance in preparation of the forms, if requested by the parents.

(3) Within ten (10) business days of receipt of the IHIP, or by August thirty-first, or for the 1988-89 school year by September 30, 1988, whichever is later, the school district

shall either notify the parents that the IHIP complies with the requirements of subdivisions (d) and (e) of this section or shall give the parents written notice of any deficiency in the IHIP.

(4) Within fifteen (15) days of receipt of a notice of a deficiency in the IHIP, or by September fifteenth, or for the 1988-89 school year by October 15, 1988, whichever is later, the parents shall submit a revised IHIP which corrects any such deficiencies.

(5) The superintendent of schools shall review the revised IHIP and shall notify the parents as to whether the revised IHIP complies with subdivisions (d) and (e) of this section within fifteen (15) days of receipt of the revised IHIP or by September thirtieth, or for the 1988-89 school year by October 31, 1988, whichever is later. If the revised IHIP is determined not to be in compliance with subdivisions (d) and (e) 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 (10) 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 (3) business days prior to such meeting. At such board meeting, the parents shall have the right to present proof of compliance, and the board of education shall make a final determination of compliance or noncompliance.

(6) The parents shall have the right to appeal any such final school district determination of noncompliance to the Commissioner of Education within thirty (30) days after receipt of such determination.

(7) When administrative review of a school district determination of noncompliance is completed, the parents shall immediately provide for the instruction of their children at a public school or elsewhere in compliance with Education Law sections 3204 and 3210. For purposes of this subdivision, such administrative review shall be deemed to be completed when one of the following events have occurred:

- (i) the parents have failed to contest a determination of noncompliance by appealing to the board of education; or
- (ii) the parents have failed to appeal a final school district determination of noncompliance to the Commissioner of Education; or
- (iii) the parents have received a decision of the Commissioner of Education which upholds a final school district determination of noncompliance.

(8) Within ten (10) days after administrative review of the determination of noncompliance is completed, the parents shall furnish the superintendent of schools with written notice of the arrangements they have made to provide their children with the required instruction, except that such notice shall not be required if the parents enroll their children in a public school.

(d) Content of Individualized Home Instruction Plan (IHIP). Each child's IHIP shall contain:

- (1) the child's name, age, and grade level,
- (2) a list of the syllabi, curriculum materials, textbooks, or plan of instruction to be used in each of the required subjects listed in subdivision (e) of this section;
- (3) the dates for submission to the school district of the parents' quarterly reports as required in subdivision (g) of this section. These reports shall be spaced in even and logical periods; and

- (4) the names of the individuals providing instruction.
- (e) Required courses.
- (1) For purposes of this subdivision, a unit means six thousand four hundred eighty (6,480) minutes of instruction per school year.
- (2) Instruction in the following subjects shall be required:
- (i) For grades one through six: arithmetic, reading, spelling, writing, the English language, geography, United States history, science, health education, music, visual arts, physical education, bilingual education and/or English as a second language where the need is indicated.
- (ii) For grades seven and eight: English (two units); history and geography (two units); science (two units); mathematics (two units); physical education (on a regular basis); health education (on a regular basis); art (one-half unit); music (one-half unit); practical arts (on a regular basis) and library skills (on a regular basis). The units required herein are cumulative requirements for both grades seven and eight.
- (iii) The following courses shall be taught at least once during the first eight grades: United States history, New York State history, and the Constitution of the United States and New York State.
- (iv) For grades nine through twelve: English (four units); social studies (four units) which includes one unit of American history, one-half unit in participation in government, and one half unit economics; mathematics (two units); science (two units); art and/or music (one unit); health education (one-half unit); physical education (two units); and three units of electives. The units required herein are cumulative requirements for grades nine through twelve.
- (v) Education Law sections 801, 804, 806, and 808 also require the following subjects to be covered during grades kindergarten through twelve:
- (a) Patriotism and citizenship;
- (b) health education regarding alcohol, drug and tobacco misuse;
- (c) highway safety and traffic regulation, including bicycle safety; and
- (d) fire and arson prevention and safety.
- (f) Attendance requirements. Each child shall attend upon instruction as follows:
- (1) the substantial equivalent of one hundred eighty (180) days of instruction shall be provided each school year.
- (2) The cumulative hours of instruction for grades one through six shall be nine hundred (900) hours per year. The cumulative hours of instruction for grades seven through twelve shall be nine hundred ninety (990) hours per year.
- (3) Absences shall be permitted on the same basis as provided in the policy of the school district for its own students;
- (4) Records of attendance shall be maintained by the parent and shall be made available to the school district upon request;
- (5) Instruction provided at a site other than the primary residence of the parents shall be provided in a building which has not been determined to be in violation of the local building code.
- (g) Quarterly reports. On or before the dates specified by the parent in the IHIP, a quarterly report for each child shall be furnished by the parent to the school district. The quarterly report shall contain the following:
- (1) the number of hours of instruction during said quarter;

- (2) a description of the material covered in each subject listed in the IHIP;
- (3) either a grade for the child in each subject or a written narrative evaluating the child's progress; and
- (4) a written explanation in the event that less than eighty percent of the amount of the course materials as set forth in the IHIP planned for that quarter has been covered in any subject.

(h) Annual assessment. At the time of filing the fourth quarterly report as specified in the IHIP, the parent shall also file an annual assessment in accordance with this subdivision. The annual assessment shall include the results of a commercially published norm-referenced achievement test which meets the requirements of paragraph (1) of this subdivision or an alternative form of evaluation which meets the requirements of paragraph (2) of this subdivision.

(1) Commercially published norm-referenced achievement tests.

(i) The test shall be selected by the parent from one of the following: the Iowa Test of Basic Skills, the California Achievement Test, the Stanford Achievement test, the Comprehensive Test of Basic Skills, the Metropolitan Achievement Test, a State Education Department test, or another test approved by the State Education Department.

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

(a) at the public school, by its professional staff; or

(b) at a registered nonpublic school, by its professional staff, provided that the consent of the chief school officer of the nonpublic school is obtained; or

(c) at a nonregistered nonpublic school, by its professional staff, provided that the consent of the superintendent of schools of the school district and of the chief school officer of the nonpublic school is obtained; or

(d) at the parents' home or at any other reasonable location, by a New York State certified teacher or by another qualified person, provided that the superintendent has consented to having said certified teacher or other person administer the test;

(iii) The test shall be scored by the persons administering the test or by other persons who are mutually agreeable to the parents and the superintendent of schools.

(iv) The test shall be provided by the school district upon request by the parent, provided that the cost of any testing facilities, transportation, and/or personnel for testing conducted at a location other than the public school shall be borne by the parent.

(v) If a score on a test is determined to be inadequate, the program shall be placed on probation pursuant to subdivision (i) of this section. A student's score shall be deemed adequate if:

(i) the student has a composite score above the thirty-third percentile on national norms; or

(ii) the student's score reflects one academic year of growth as compared to a test administered during or subsequent to the prior school year.

(2) Alternative evaluation methods. An alternative form of evaluation shall be permitted to be chosen by the parent only as follows:

(i) for grades one through three a written narrative prepared by a person specified in subparagraph (iii) of this paragraph;

(ii) for grades four through eight a written narrative prepared by a person specified in subparagraph (iii) of this paragraph. This alternative form of evaluation may be used no more often than every other school year for these grades;

(iii) for the purposes of this paragraph, the person who prepares the written narrative shall be a New York State certified teacher, a home instruction peer group review panel, or other person, who has interviewed the child and reviewed a portfolio of the child's work. Such person shall certify either that the child has made adequate academic progress or that the child has failed to make adequate progress. In the event that such child has failed to make adequate progress, the home instruction program shall be placed on probation pursuant to subdivision (i) of this section. The certified teacher, peer review panel, or other person shall be chosen by the parent with the consent of the superintendent. Any resulting cost shall be borne by the parent.

(3) If a dispute arises between the parents and the superintendent of schools, including disputes over the administration of the commercially published norm-referenced achievement test or the use of alternative evaluation methods, the parents may appeal to the board of education. If the parents disagree with the determination of the board of education, the parents may appeal to the Commissioner of Education within thirty (30) days of receipt of the board's final determination.

(i) Probation.

(1) If a child's annual assessment fails to comply with the requirements of subdivision (h) of this section, the home instruction program shall be placed on probation for a period of up to two school years. The parent shall be required to submit a plan of remediation which addresses the deficiencies in the child's achievement, and seeks to remedy said deficiencies. The plan shall be reviewed by the school district. The school district may require the parents to make changes in the plan prior to acceptance.

(2) If after the end of any semester of the probationary period the child progresses to the level specified in the remediation plan, then the home instruction program shall be removed from probation. If the child does not attain at least seventy-five percent of the objectives specified in the remediation plan at the end of any given semester within the period of probation, or if after two years on probation one hundred percent of the objectives of the remediation plan have not been satisfied, the superintendent of schools shall provide the parents with the notice specified in paragraph (5) of subdivision (c) of this section and the board of education shall review the determination of noncompliance in accordance with such paragraph, except that consent of the parents to such review shall not be required.

(3) If during the period of probation the superintendent of schools has reasonable grounds to believe that the program of home instruction is in substantial noncompliance with these regulations the superintendent may require one or more home visits. Such home visit(s) shall be made only after three days' written notice. The purpose of such visit(s) shall be to ascertain areas of noncompliance with these regulations and to determine methods of remediating any such deficiencies. The home visit(s) shall be conducted by the superintendent or by the superintendent's designee. The superintendent may include members of a home instruction peer review panel in the home visit team.

## **ACTION STEPS FOR HOME INSTRUCTION- Commissioners Regulations 100.10**

<b><u>WHO</u></b>	<b><u>ACTION</u></b>	<b><u>TIME FRAME</u></b>
Parent	Sends written notice to superintendent (or designee) of intentions to instruct child at home.	By July 1 each year or within 14 days after commencing home instruction or moving into district
School District	Sends to parent a copy of the CR 100.10 and form for Individualized Home Instruction Plan (IHIP) for each child.	Within 10 business days after receiving notice from parent.
Parent	Submits completed IHIP to school district which includes child's name, age, grade level, syllabi, curriculum materials, textbooks, or plan of instruction, dates parent will submit quarterly reports, name of instructor.	By August 15 each year <u>or</u> within 4 weeks of receipt of CR 100.10 and intention letter.

### **Courses Required in IHIP:**

**Grades 1-6:** math, reading, spelling, writing, English language, geography, US history, science, health, music, visual arts, physical education, if needed, bilingual education

**Grades 7-8:** English 2 units, history/geography 2 units, science 2 units, math 2 units, physical education regularly, art ½ unit, music ½ unit, health regularly, practical arts regularly, library skills regularly, (a unit means 6,480 minutes of instruction per year.)

- Required once during Grades 1-8: US history, NYS history, Constitutions of US and NYS.

**WHO**

**ACTION**

**TIME FRAME**

**Grades 9-12:** English 4 units, social studies 4 units, which includes 1 unit of American history, ½ unit government participation, ½ unit economics, math 2 units, science 2 units, art and/or music 1 unit, health ½ unit; physical education 2 units, and 3 units of electives. The units are cumulative requirements for grades 9-12.

Required subjects to be covered during K-12: patriotism; citizenship; health education on alcohol, drug, and tobacco misuse; highway, traffic, and bicycle safety; fire and arson prevention and safety.

School

Provides assistance to parent in preparing IHIP if requested by parent.

During 4-week preparation period.

Notifies parents of IHIP compliance or gives written notice of any deficiencies.

By August 31 each year or within 10 business days of receipt of IHIP, whichever is later.

Parent

If necessary, submits a revised IHIP to school district

Within 15 days of receipt of notice of deficiency in IHIP

Superintendent

If necessary, reviews revised IHIP and notifies parents of its compliance or gives written notice of reasons IHIP was determined not to be in compliance and date of next regularly scheduled board meeting to be held at least 10 days after the mailing date of notice.

By September 30 each year or, within 15 days of receipt of the revised IHIP, whichever is later.

Parent

If necessary, notifies the board of education of desire to contest superintendent's determination of IHIP noncompliance.

At least 3 business days prior to board of education meeting date.

<u>WHO</u>	<u>ACTION</u>	<u>TIME FRAME</u>
Parent	<u>If necessary</u> , presents proof of compliance of IHIP to board of education	At regularly scheduled board of education meeting at least 10 days from mailing date of the superintendent's notice of HIP noncompliance.
Board of Education	<u>If necessary</u> , makes a final determination of the compliance or noncompliance.	At regularly scheduled board of education meeting at which parent presents proof of compliance of their IHIP.
Parent	<u>If necessary</u> , provides for instruction of their children at a public school or elsewhere if and when no appeal is left or available concerning the noncompliance of the IHIP. <u>If necessary</u> , furnishes the superintendent written notice of arrangements made to provide their children with required instruction unless they are enrolled in public school.	Immediately  Within 10 days following the date on which no appeal is left or available.
Children	Attend instruction	The substantial equivalent of 180 days and 900 hours per year of grades 1-6, and 180 days and 990 hours per year for grades 7-12.
Parent	Maintains records of attendance permitting absences on same basis as the district uses for its enrolled students.	Equivalent of 180 days per year
School District	May review records of attendance.	Upon request
Parent	Submits to the school district quarterly report for each child which lists hours of instruction, description of material covered in each subject in IHIP, grade in each subject <u>or</u> a written evaluation of child's progress. If 80% or less of course material listed in the IHIP for any subject is covered, submits written explanation.	On or before dates specified by parent in IHIP for quarterly reports.

**WHO**

**ACTION**

**TIME FRAME**

Parent

Determines if final evaluation will include commercially published norm-referenced achievement tests or written narrative at beginning of 4<sup>th</sup> quarter.

On or before dates specified by parent in IHIP for quarterly reports.

Parent

Chooses achievement test for evaluation from among:

- Iowa Test of Basic Skills
- California Achievement Test
- Stanford Achievement Test
- Comprehensive Test of Basic Skills
- Metropolitan Achievement Test
- State Education Department (SED) Tests
- Other SED approved tests

Parent and Superintendent

Determine where and who will administer and score achievement test following options:

- Public School/professional staff
- Registered nonpublic school/professional staff with consent of chief school officer
- Nonregistered nonpublic school/professional staff with consent of superintendent of district and chief school officer
- Other location/other person approved by superintendent

In Grades 1-3, or, in alternate years Grades 4-8, instead of standardized testing, parent may choose to have a written narrative prepared by either:

- Certified teacher, or
- peer review panel, or
- other approved person

Upon parental request, provides test instrument used for annual assessment

During 4<sup>th</sup> quarter

<b><u>WHO</u></b>	<b><u>ACTION</u></b>	<b><u>TIME FRAME</u></b>
Parent	Submits an annual assessment for each student which includes either results of test scores or a narrative report	At the time of filing the 4 <sup>th</sup> quarter report
School District	Determines composite scores on achievement tests adequate if they are : <ul style="list-style-type: none"> <li>o Above 33 percentile on national norms <u>or</u> show 1 academic year's growth</li> </ul> If the child's annual assessment fails to be adequate, places student's program on probation for maximum of 2 years.	Following the submission of the annual assessment by the parent.  Following submission of annual assessment by parent
Parent	<u>If necessary</u> , submits a plan of remediation which addresses deficiencies in child's achievement.	Prior to district's acceptance of next annual plan
School District	<u>If necessary</u> , removes home instruction program from probation if child progresses to level specified in the remedial plan.	At end of any semester following beginning of probation
Superintendent	<u>If necessary</u> , may visit the home following 3 days written notice to ascertain areas of noncompliance. Visits must be made by superintendent or a designee and could include member of peer review panel.	Upon reasonable grounds of noncompliance with regulations
School	<u>If necessary</u> , notifies parents in writing of failure to comply with at least 75% of objective of remediation plan each semester or 100% of objectives of the remediation plan within 2 years and of next regularly scheduled board of education meeting which will fall 10 days past the notice's mailing date and parents' right to contest the determination	End of semester or after two years of probation.

# QUESTIONS AND ANSWERS ON HOME INSTRUCTION

## GENERAL

- 1. 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.

- 2. 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.

- 3. 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 and a form on which to submit an IHIP.

- 4. 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.

- 5. 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.

- 6. Must parents file a health inspection report or fire inspection report?**

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

- 7. 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.

- 8. 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.

- 9. What is a Home Instruction Worksheet?**

The Worksheet is provided as a model to assist 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.

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

No. The Worksheet is for internal district use.

**11. 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 135.4(c)(7) directs that a participant in interscholastic sports must be enrolled in the public school; however, children educated other than at the public school may participate in intramural and other school-sponsored club activities. It is recommended that each board of education establish a policy to this effect.

**12. 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.

**13. 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.

**14. 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.

**15. 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.

**16. 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.

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

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

**18. 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.

**19. 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 except for dual enrollment opportunities the district may make available under Section 3602-c of the Education Law and for special education programs and services the district is required to make available.

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

While a district is not required to make occupational and vocational education programs and programs for the gifted available, the board of education may, at its discretion, allow such students to participate in these programs. **A board of education must offer a student with disabilities the special education services and/or programs as recommended on the Individualized Education Program by the Committee on Special Education.** The district may claim State aid for the provision of dual enrollment services in district-operated programs. Services provided through BOCES, while generating BOCES aid, do not generate dual enrollment aid.

**21. 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, except for those students counted as dually-enrolled in gifted and occupational education programs or receiving programs and services for students with special educational needs.

**22. 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.

**23. 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.

**24. 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.

**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.

**30. 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.

**31. 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.

**32. 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.

**33. 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.

**34. 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, there should not be a basis for liability under current law.

### **INDIVIDUALIZED HOME INSTRUCTION PLAN (IHIP)**

**35. 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?**

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.

**36. 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.

**37. 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.

**38. When must a student begin to receive instruction?**

A change in 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.

**39. 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.

**40. 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.

**41. 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.

**42. 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.

**43. 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.

**44. Is a district required to review the IHIP submitted for a student beyond compulsory attendance age?**

No.

**45. 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.

**46. 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.

**47. 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.

**48. 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.

**49. 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.

**50. 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.

**51. 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.

**52. 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.

**53. 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 even if the supplier of the curriculum materials considers the student to be enrolled in its school or program.

**54. 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.

## **EVALUATION**

**55. 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.

**56. 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.

**57. Are students instructed at home required to take any State tests?**

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

**58. 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 are not appropriate for this purpose

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

No.

**61. 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.

**62. 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.

**63. 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.

**64. 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.

**65. 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.

**66. 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.

## **COMMENCEMENT OF HOME INSTRUCTION DURING THE SCHOOL YEAR**

**67. 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.

**68. 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 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.

**69. 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.

## **STUDENTS WITH SPECIAL EDUCATIONAL NEEDS**

**70. May the parents of a student with a disability choose to provide home instruction for the student?**

Yes. Commissioner's Regulation 100.10 can be applied to any student of compulsory attendance age without regard to a possible or identified handicapping condition.

**71. Is the district required to provide services to a student with a disability who has been identified by the Committee on Special Education?**

The district is required to make appropriate services available to any identified student in accordance with the approved Individualized Education Program (IEP).

**72. Are there any restrictions on the availability of services to be provided by the district?**

The district has the obligation to offer all the services contained in the student's IEP.

**73. Is the district required to provide transportation in order for the student to receive services?**

Transportation must be offered to the extent necessary to enable the student to benefit from the instruction. The need for special transportation must be addressed in the student's IEP.

**74. Where are the services delivered?**

Generally, services would be delivered at the public school. However, the district and the

parents may agree to have services delivered at an off-site as well (i.e. library, youth center, etc.)

**75. May services be delivered at the student's home?**

There is no prohibition against providing the services in the student's home. If the district and parent agree that this is the most convenient and appropriate location, services may be provided to the student in the home.

**76. When are the services delivered?**

The parent and district officials should discuss arrangements so that a block of time can be arranged for services which minimize disruption.

**77. May a parent elect to have the student receive some but not all of the services specified in the IEP?**

Yes. Given the nature of home instruction, a parent may assume the responsibility for providing some of the needed services and may choose to have any other(s) specified in the IEP provided by the district.

**78. Does a parent have the right to refuse the delivery of any services by the public school district?**

Yes. If the parent refuses services for a student known to have a disability, the parent should address the needs of the child in the IHIP.

**79. To what extent must the IHIP include the services specified in the IEP?**

The IHIP should include the equivalent services listed in the IEP. As home instruction is, by its very nature, individualized and flexible, parents may provide for the needs of their children in different ways than those contained in the IEP

**80. Must the Committee on Special Education review and/or approve the IHIP for a student with a disability?**

No. The superintendent of schools of the district is responsible for determining whether an IHIP is in compliance with the regulation and may call upon other persons to assist in the review. However, the superintendent has the responsibility to review and notify the parents whether the IHIP complies with the regulation.

**81. Is a parent required to submit an IEP along with an IHIP?**

No. A parent is not expected or required to construct or submit an IEP.

**82. How should the achievement of a student with a disability who is instructed at home be measured?**

Alternative evaluation measures provided in the student's IEP may be used. If the student does not have an IEP, one of the two alternatives provided in the regulation, a standardized test or a narrative evaluation, must be used.

**83. Is the district responsible for providing a reasonable amount of instructional materials for home instruction?**

A school district may provide textbooks and other materials to students instructed at home but it is not obligated to do so. However, if a student with a disability receives special education in accordance with an approved IEP, the district must provide the student with any specialized instructional materials necessary to enable the child to benefit from special education.

**84. How does the district claim aid for providing services to a student with a disability who is instructed at home?**

The district may claim aid for providing any of the services described in the IEP by filing for excess cost aid on State aid forms.

## COLLEGE ENTRANCE

### **85. 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.

**Secondly**, 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.

## 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, 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.