

TITLE XV EDUCATION

CHAPTER 193-A HOME EDUCATION

Section 193-A:1

193-A:1 Definitions. – In this chapter:

[Paragraph I effective until July 1, 2009; see also paragraph I set out below.]

I. "Child" means a child or children at least 6 years of age and under 16 years of age who is a resident of New Hampshire.

[Paragraph I effective July 1, 2009; see also paragraph I set out above.]

I. "Child" means a child or children at least 6 years of age and under 18 years of age who is a resident of New Hampshire.

II. "Nonpublic school" means a nonpublic school approved pursuant to rules adopted by the state board of education and administered by the department of education and which has agreed to administer the relevant provisions of this chapter.

III. "Parent" means a parent, guardian, or person having legal custody of a child.

IV. "Resident district" means the school district in which the child resides.

Source. 1990, 279:3. 2007, 242:4, eff. July 1, 2009.

Section 193-A:2

193-A:2 Program Established. – There is established the home education program to be administered by the department of education.

Source. 1990, 279:3, eff. July 1, 1991.

Section 193-A:3

193-A:3 Rulemaking. – The state board of education shall adopt rules, pursuant to RSA 541-A, relative to administering the home education program.

Source. 1990, 279:3, eff. July 1, 1991.

Section 193-A:4

193-A:4 Home Education; Defined. –

I. Instruction shall be deemed home education if it consists of instruction in science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music. Home education shall be provided by a parent for his own child, unless the provider is as otherwise agreed upon by the appropriate parties named in paragraph II.

II. The department of education, resident district superintendent, or a nonpublic school shall work with parents upon request in meeting the requirements of this section.

Source. 1990, 279:3. 2006, 13:1, eff. May 12, 2006.

Section 193-A:5

193-A:5 Notification and Other Procedural Requirements. – A parent may provide home education to a child or children at home, subject to the following requirements:

I. (a) Any parent commencing a home education program for a child, for a child who withdraws from a public school, or for a child who moves into a school district shall notify the commissioner of the department of education, resident district superintendent, or principal of a nonpublic school of such within 5 business days of commencing the program.

(b) A parent planning to continue a home education program shall notify the commissioner of education, resident district superintendent, or principal of a nonpublic school by the first school day according to the school calendar in the child's resident school district.

II. Notification made by the parent pursuant to paragraph I shall include a list of the names, addresses, and birth dates of all children who are participating in the home education program.

III. Written notice of termination of a home education program shall be filed by the parent with the commissioner of education, and, in addition, the resident district superintendent or nonpublic school principal within 15 days of said termination.

IV. Subject to the provisions of RSA 193-A:7, the commissioner of education, resident district superintendent, or nonpublic school principal shall acknowledge receipt of notification within 14 days of such receipt.

Source. 1990, 279:3. 1996, 222:1. 2006, 13:2, 3, eff. May 12, 2006. 2008, 344:1, eff. July 7, 2008.

Section 193-A:6

193-A:6 Records; Evaluation. –

I. The parent shall maintain a portfolio of records and materials relative to the home education program. The portfolio shall consist of a log which designates by title the reading materials used, and also samples of writings, worksheets, workbooks, or creative materials used or developed by the child. Such portfolio shall be preserved by the parent for 2 years from the date of the ending of the instruction.

II. The parent shall provide for an annual educational evaluation in which is documented the child's demonstration of educational progress at a level commensurate with the child's age and ability. The child shall be deemed to have successfully completed his annual evaluation upon meeting the requirements of any one of the following:

(a) A certified teacher or a teacher currently teaching in a nonpublic school who is selected by the parent shall evaluate the child's educational progress upon review of the portfolio and discussion with the parent or child. The teacher shall submit a written evaluation to the commissioner of education, resident district superintendent, or nonpublic school principal;

(b) The child shall take any national student achievement test, administered by a person who meets the qualifications established by the provider or publisher of the test. Composite results at or above the fortieth percentile on such tests shall be deemed reasonable academic proficiency. Such test results shall

be reported to the commissioner of education, resident district superintendent, or nonpublic school principal;

(c) The child shall take a state student assessment test used by the resident district. Composite results at or above the fortieth percentile on such state test shall be deemed reasonable academic proficiency. Such test results shall be reported to the commissioner of education, the resident district superintendent, or nonpublic school principal; or

(d) The child shall be evaluated using any other valid measurement tool mutually agreed upon by the parent and the commissioner of education, resident district superintendent, or nonpublic school principal. The results shall be reported by the parent or the testing agency to such appropriate official.

III. The commissioner of education, resident district superintendent, or nonpublic school principal shall review the results of the annual educational evaluation of the child in a home education program as provided in paragraph II. If the child does not demonstrate educational progress for age and ability at a level commensurate with his ability, the commissioner, superintendent, or principal shall notify the parent, in writing, that such progress has not been achieved. The parent shall have one year from the date of receipt of the written notification to provide remedial instruction to the child. At the end of the one-year probationary period, the child shall be reevaluated in a manner as provided in this section. Continuation in a home education program shall be contingent upon the child demonstrating at the end of the probationary period educational progress commensurate with his age and ability. The parent of a child who fails to demonstrate such progress at the end of the probationary period shall be notified by the commissioner that the parent is entitled to a hearing as provided in RSA 193-A:7, I and II and that the program will be terminated absent a finding for continuation pursuant to such hearing. Upon a finding that the program should be terminated, the child shall be reported by the commissioner or nonpublic school principal to the appropriate resident district superintendent, who shall, if necessary, take appropriate action to ensure that compulsory attendance requirements are met.

Source. 1990, 279:3. 2006, 13:4, eff. May 12, 2006.

Section 193-A:7

193-A:7 Hearing, Notice, and Procedure. –

I. A parent shall be entitled to a due process hearing which shall be conducted by an impartial hearing officer appointed by the commissioner of education. Notice of such hearing shall be provided within 10 days of the request for such hearing, shall include a brief summary of the material facts, and shall be sent to each parent and each instructor of the child known to the commissioner. The hearing shall occur within 30 days of the date of such notice. Upon request, the hearing officer shall conduct the hearing at a location near the site of the home education program.

II. In order to terminate a program, the hearing officer shall find at the hearing at least one of the following:

- (a) The parent has failed to comply with the requirements of this chapter; or
- (b) The parent or the home education program has substantially failed to or cannot provide a child with the minimum course of study as required by RSA 193-A:4, I.

Source. 1990, 279:3. 2006, 13:5, eff. May 12, 2006.

Section 193-A:8

193-A:8 Order; Appeals. –

I. Subsequent to a hearing conducted in accordance with RSA 193-A:7, the hearing officer shall enter an order within 10 working days which shall order either the continuance or termination of the home education program under scrutiny. Such order shall take effect immediately. A copy shall be given to the

appropriate superintendent of schools, who shall, if necessary, take appropriate action to ensure that compulsory attendance requirements are met.

II. Following such order, the parent or the commissioner may appeal the decision of the hearing officer to a court of competent jurisdiction. Said notice of appeal shall be filed within 30 days of such decision by the hearing officer. Pending appeal, the home education program shall continue.

Source. 1990, 279:3. 2006, 13:6, eff. May 12, 2006.

Section 193-A:9

193-A:9 Liability Limited. – The resident school district, the board of such district, and any employees of the resident school district associated with a child who is receiving home education in accordance with this chapter, are not liable in damages in a civil action for any injury, death or loss to person or property allegedly sustained by that child, his parent, or any other person as a result of the child's receipt of home education, including but not limited to, any liability allegedly based on the failure of the child to receive a free appropriate or adequate public education.

Source. 1990, 279:3, eff. July 1, 1991.

Section 193-A:10

193-A:10 Home Education Advisory Council. –

I. There is established the home education advisory council which shall consist of the following members:

(a) Two members of the house of representatives from the house education committee, appointed by the speaker of the house of representatives.

(b) One member of the senate from the senate education committee, appointed by the president of the senate.

(c) The following individuals who shall be appointed by the commissioner of the department of education from persons named as follows:

- (1) Six members nominated by home educator associations organized within New Hampshire.
- (2) Two members nominated by the commissioner of the department of education, or designee.
- (3) One member nominated by the New Hampshire School Administrators Association.
- (4) One member nominated by the New Hampshire School Boards Association.
- (5) One member nominated by the New Hampshire Association of School Principals.
- (6) One member nominated by the nonpublic school advisory council established by the state

board of education pursuant to RSA 21-N:9, II(f).

II. The duties of the council and the terms of office of the members appointed under subparagraph I(c) shall be prescribed in accordance with rules proposed by the commissioner of education and adopted by the state board of education pursuant to RSA 541-A. Legislative members of the council shall serve a term which is coterminous with their elected office.

III. The chair of the council shall be elected by the council members from the home educator membership on the council appointed under subparagraph I(c). All vacancies on the council shall be filled in the same manner as that of the original appointment.

IV. Legislative members of the council shall receive mileage at the legislative rate when attending to the duties of the council.

Source. 1990, 279:3, eff. July 1, 1990. 2008, 344:2, eff. July 7, 2008.