

## NEW YORK

<b>Compulsory Attendance Ages:</b>	From “...six years of age on or before the first of December in any school year... until [completion of high school or] the last day of session in the school year in which the minor becomes sixteen years of age.” Any board of education can vote to raise the compulsory attendance age in their school district from 16 to 17 if the minor is not employed. New York Education Law § 3205. NYC and several other districts have raised the compulsory attendance age to 17. Some school districts have lowered the compulsory attendance age to 5 for children who turn 5 on or before December 1. However, this only applies if you enroll your child into the public school. Any parent can wait until their child will turn 6 by December 1 to enroll their child in school.
<b>Required Days of Instruction:</b>	The “substantial equivalent of 180 days” which must include 900 hours per year year for grades 1-6 and 990 hours per year for grades 7-12. N.Y. Comp. Codes R. & Regs. tit. 8, § 100.10(f)(1) -(2).
<b>Required Subjects:</b>	<i>(grades K through 12):</i> patriotism and citizenship, health education regarding alcohol, drug and tobacco misuse, traffic safety (including bicycle safety), fire safety; <i>(grades 1 through 6):</i> arithmetic, reading, spelling, writing, English, geography, United States history, science, health, music, visual arts, and physical education; <i>(grades 7 and 8):</i> English (two credits), history and geography (two credits), science (two credits), mathematics (two credits), physical education (regular basis), health (regular basis), art (half credit), music (half credit), practical arts (regular basis), and library skills (regular basis); <i>(at least once in first 8 grades):</i> United States and New York history and constitutions; <i>(grades 9 through 12):</i> 4 credits English, 4 credits of social studies—including American history (1 credit), participation in government (0.5 credit), and economics (0.5 credit)—2 credits of math, 2 credits of science, 1 credit of art or music, 0.5 credit of health, 2 credits of physical education, and 3 credits of electives.. N.Y. Comp. Codes R. & Regs. tit. 8, § 100.10(e) A credit is a minimum to 108 hours of instruction per school year. N.Y. Comp. Codes R. & Regs. tit. 8, § 100.10(e)(1)

**Homeschool Statute:** N.Y. Educ. Law § 3204(1). A child “may attend a public school or elsewhere.” Instruction given to a minor “elsewhere” must be “at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools....” N.Y. Educ. Law § 3204(2). Using this statute as its authority, the state board of education, in 1988, enacted homeschool regulations. N.Y. Comp. Codes R. & Regs. tit. 8, § 100.10.

1. These homeschool regulations require parents to do the following:
  - a. submit a notice of intent to homeschool to the district superintendent by July 1 (the beginning of the school/reporting year) annually, or within fourteen days of starting homeschooling during the middle of a school year.

- b. subsequently, fill out an Individualized Home Instruction Plan (IHIP) form by August 15<sup>th</sup> or within four weeks of the receipt of the IHIP form from the school district (whichever is later), containing (1) the child's name, age, and grade level; (2) a list of the syllabi, curriculum materials, textbooks, *or* a plan of instruction; (3) dates for submission of quarterly reports; and (d) name of the persons giving instruction. If a student will be meeting the compulsory educational requirements through full-time study at a degree-granting institution (at least 12 hours a semester) a statement indicating this must be included in the IHIP along with the subjects to be covered.
- c. maintain records of attendance (the substantial equivalent of 180 days). These are only required to be submitted upon request of the superintendent.
- d. file quarterly reports giving (1) the number of hours of instruction during quarter, (2) a description of the material covered in each subject, (3) a grade or narrative evaluation in each subject (the superintendent has no authority to judge the adequacy of these reports); and (4) a written explanation if less than 80% of the amount of the course materials as set forth in the IHIP has been covered in any subject.
- e. file an annual assessment with the last quarterly report. The assessment can either be a norm-referenced achievement test, or a written narrative evaluation.

The achievement test can be administered by a certified teacher or by another “qualified person.” A certified teacher, a home instruction peer group review panel, or other person can conduct the written narrative evaluation. A parent could potentially administer the achievement test or conduct the written narrative evaluation. However, unless the assessment is administered at the local public school or a registered nonpublic school the parent is to choose the individual “with the consent of the superintendent.” We suggest simply notifying the superintendent of your choice in the third quarterly report.

For grades one through three, the written narrative evaluation may be used. In grades four through eight, the written narrative evaluation may be used every other year. Beginning with ninth grade, standardized testing must be done every year.

2. *In the Matter of Dixon*, No. N-37-86, Family Court of Oswego County, Nov. 21, 1988, the court held home visits to be unconstitutional and unenforceable. The court stated that the school district's “desired on-site inspection was arbitrary, unreasonable, unwarranted, and violative of the [homeschool parents'] due process rights....” Slip. Op. at 5. See also *In the Matter of Standish*, No. N-125-86, Oswego County, Dec. 23, 1988, an HSLDA case with a similar ruling.

**Teacher Qualifications:** Instruction need only be given by a competent teacher. N.Y. Educ. Law § 3204. The parent does not need to be certified. *In re Franz*, 55 A.D. 2d 424, 427, and 390 NYS 2d 940 (1977). A parent is deemed “competent” if the regulations above are followed.

**Standardized Tests:** The parent can choose 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 (such as the PASS test) and have it administered at a place of the parents' choosing. The test score is deemed to be adequate if the child's composite score is above the 33rd percentile, or the child's score reflects one academic year of growth compared to a test administered the prior school year. A standardized test is required every other year between 4<sup>th</sup> through 8<sup>th</sup> grades and every year in high school. (New York's PEP test is not required for homeschoolers).

**Proof of Immunization:** New York Public Health Law § 2164 states that every parent shall immunize their child against "poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B." However, homeschool parents are not required to demonstrate proof of these vaccines in order to educate their children. In our opinion, homeschool children who receive special education services from their local school district should also not be required to show proof of immunization.