

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11)) (2007 Supp) (SEOE Act), and Article II, Sections 1 and 4 of An Act to provide for compulsory school attendance, and for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-202 and 38-205) (2001), hereby gives notice of her intent to publish for a second time proposed regulations adding a new Chapter 52 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled "District of Columbia Home Schooling." The purpose of the new chapter is to establish procedural rules for home schooling for District of Columbia residents from age 5 until a child reaches the age of 18 years.

A notice of proposed Home Schooling regulations was published in the *D.C. Register*, 55 DCR 5281, on May 2, 2008, providing a 30 day public comment period ending on June 2, 2008. The propose rules reflected discussions and testimony presented at a regularly scheduled State Board of Education ("SBOE") meeting and a public hearing. The proposed rules were also posted on the Office of the State Superintendent of Education ("OSSE") website at [osse.dc.gov](http://osse.dc.gov).

Following the comment period, the State Board held two public working sessions in June 2008 to discuss the comments and consider possible revisions. Over 2800 emails and written comments and 400 phone calls were received from across the United States with 16 written comments from District of Columbia residents. In light of these comments and the public testimony received, the proposed rules have been revised and are being issued for further public comment.

The proposed regulations expand the administrative procedures available to parents and legal guardians to resolve differences with regard to home schooling compliance. In the event of a dispute, the proposed regulations add a specific process for parents and legal guardians to meet with the OSSE, about their home schooling program. In addition, the regulations also include an administrative appeal process giving parents and legal guardians an opportunity to appeal in writing to the State Superintendent of Education. Moreover, in direct response to comments, a final decision will include a statement reminding parents and legal guardians of their right under District law to appeal a final administrative decision to the Superior Court of the District of Columbia. The proposed regulations further clarify that nothing in the regulations is intended to require regular and periodic reviews of all home schooling portfolios.

The District of Columbia has a statutory responsibility to assure that children between the ages of five and seventeen, residing in the District of Columbia, receive an education. The proposed regulations seek to balance this mandate with a choice for parents and legal guardians to provide a thorough and regular education in a home schooling program. The proposed regulations provide a framework to differentiate bona fide home schooling programs from instances where a child may not receive a regular and thorough education.

Pursuant to section 6(a) of the District of Columbia Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505(a))(2001), the State Superintendent of Education has determined that in view of the previous period of comment, the public meetings of the SBOE on these rules, the scheduled SBOE public meeting on these rules on July 16, 2008, and the need to ensure that a regulatory framework for the benefit and well being of the District's children is in place for the 2008 – 2009 school year, there is good cause to shorten the time for filing comments to these proposed rules and that comments may be filed up to and including July 14, 2008. These proposed regulations will also be posted on the OSSE website.

## CHAPTER 52 DISTRICT OF COLUMBIA HOME SCHOOLING

### Sections

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### **5200 GENERAL PROVISIONS**

- 5200.1 The provisions of this chapter are issued pursuant to Section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176, D.C. Official Code § 38-2601. *et seq.*) (2007 Supp.) (SEOE Act), and Article II, sections 1 and 4 of an Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code §§ 38-202 and 38-205) (2001).
- 5200.2 Student records, documents, correspondence, and other materials received in accordance with the provisions of this chapter shall be reviewed pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; the Code of Federal Regulations (CFR) 34 CFR Part 99, and any other applicable District or federal confidentiality laws or regulations.
- 5200.3 The purpose of this chapter is to establish procedures for home schooling in accordance with the District of Columbia's school attendance and reporting laws and the SEOE Act, to ensure that children participating in a home schooling

program receive thorough, regular education that will enable them to function as productive members of society in the 21<sup>st</sup> century.

**5201 HOME SCHOOLING ADMINISTRATION**

5201 The Office of the State Superintendent of Education (OSSE) shall administer and implement the District of Columbia's Home Schooling regulations set forth in this chapter.

**5202 WRITTEN NOTIFICATION**

5202.1 A parent or legal guardian who chooses to provide home schooling in the District of Columbia shall provide written notification on an official form developed by the OSSE which:

- (a) Indicates consent to the requirements in this chapter; and
- (b) Shall be submitted to the OSSE at least 15 days, not including Saturdays, Sundays, or District holidays, prior to the first date of home instruction.

**5203 ANNUAL VERIFICATION AND DISCONTINUATION**

5203.1 For each year in which a home schooling program continues, the parent or legal guardian shall file a Home Schooling Notification Form identifying each child being home schooled, no later than August 15<sup>th</sup> of each year,

5203.2 A parent or legal guardian shall notify the OSSE in writing of any discontinuation of home schooling for any reason 15 days, not including Saturdays, Sundays, or District holidays, prior to discontinuation of home schooling.

**5204 HOME SCHOOLING PROGRAM**

5204.1 The home schooling program for each student shall:

- (a) Provide thorough, regular instruction of sufficient duration to implement the home school program; and
- (b) Provide instruction that includes, but need not be limited to, language arts, mathematics, science, social studies, art, music, health, and physical education.

5204.2 Nothing in this chapter shall be interpreted to require that home schooling should include programs or methods used by the District's public schools. Nor shall any home schooling program be required to adhere to specific curricular frameworks or any other program of instruction adopted by the District's public schools.

**5205 EDUCATIONAL MATERIALS**

- 5205.1 A parent or legal guardian who chooses to administer a home schooling program shall maintain a portfolio of home schooling materials for each child which includes evidence of the child's current work, such as examples of the child's writings, worksheets, workbooks, creative materials, assessments, or any other materials that demonstrate that the child is engaged in thorough, regular educational activities in a range of subjects.
- 5205.2 The portfolio should be maintained for at least one year and made available for review by the OSSE upon written request.

**5206 REVIEW OF EDUCATIONAL MATERIALS**

- 5206.1 The OSSE may, at its discretion, request to review the portfolio of home schooling materials described in Section 5205, provided that the following requirements are met:
- (a) The request is made in writing;
  - (b) The review is held at a time and place mutually agreeable to the representative of the OSSE and the parent or legal guardian;
  - (c) There are not more than two (2) reviews conducted during a school year; and
  - (d) The purpose of the review is to ensure that the child is receiving thorough, regular home schooling instruction, consistent with this chapter.

Nothing in this section shall be interpreted to require a regular periodic review of all portfolios.

**5207 PARENT OR LEGAL GUARDIAN QUALIFICATIONS**

- 5207.1 Parents or legal guardians who wish to be their children's instructors must have a high school diploma or its equivalent.
- 5207.2 A parent or legal guardian who wishes to provide home schooling instruction and does not have a high school diploma or its equivalent may petition the OSSE for a waiver of section 5207.1. Such petition must provide evidence of the petitioner's ability to provide thorough, regular education.

**5208 COMPLIANCE, REVIEW, AND FINAL RESOLUTION**

- 5208.1 If upon review of the home instruction portfolio, the OSSE determines that a student is not receiving thorough, regular education consistent with the

requirements set forth in this chapter, the OSSE shall provide a written Notification of Deficiencies to the parent or legal guardian, within 30 days of the review, not including Saturdays, Sundays, or District holidays.

- 5208.2 A parent or legal guardian must respond in writing to the written Notification of Deficiencies no later than 30 days, not including Saturdays, Sundays, or District holidays, after the date of the written Notification of Deficiencies; and provide the OSSE with a Corrective Action Plan with evidence that each deficiency has been or is being corrected. The parent or legal guardian may request a meeting with the OSSE before the Corrective Action Plan is due, to present evidence of compliance or otherwise discuss the deficiencies identified by the OSSE.
- 5208.3 The OSSE shall notify the parent or legal guardian in writing of the acceptance of the Corrective Action Plan with evidence that a deficiency has been corrected, or the need for further modification consistent with this chapter:
- a. The OSSE shall respond within 15 days of the date of the Plan, not including Saturdays, Sundays, or District holidays;
  - b. The parent or legal guardian may request and the OSSE shall grant a meeting to discuss the OSSE response to the Plan; and
  - c. The parent or legal guardian shall implement the Plan as approved by the OSSE.
- 5208.4 In the event the Corrective Action Plan fails to correct deficiencies, and the home schooling program therefore does not conform to the requirements of this chapter, the OSSE shall issue a Letter of Non-Compliance, which shall state the basis for its determination of non-compliance. Each Letter shall include a statement about the parent's or legal guardian's ability to seek review of the Letter with an appeal in writing to the State Superintendent of Education and the right to judicial review of a final decision by the State Superintendent of Education.
- 5208.5 An appeal to the State Superintendent of Education involving the Letter of Non-Compliance must be filed with the OSSE within 15 calendar days of the date of the Letter.
- 5208.6 A final decision issued by the State Superintendent of Education shall include a statement that the final decision may be appealed by the parent or legal guardian, to the Superior Court of the District of Columbia pursuant to D.C. Official. Code § 11-921 (a)(6).
- 5208.7 Within 45 days of the date of a final decision issued by the State Superintendent of Education, requiring the parent or legal guardian to enroll the child or children in a public or non public school, the parent or legal guardian shall enroll the child or children in a public or non public school, unless the action is stayed by court order.

**5209 VOLUNTARY PARTICIAPATION IN STANDARDIZED TESTING**

5209.1 A child receiving home schooling may participate free of charge in the regularly scheduled standardized testing programs that are administered in the public school the child is eligible to attend.

**5210 ENROLLMENT IN A DISTRICT OF COLUMBIA PUBLIC SCHOOL**

5210.1 Upon application of a child to enroll in a District of Columbia public school from a home schooling program, placement of the child and any credits to be awarded toward high school graduation shall be determined by evaluation. The evaluation may include administration of standardized tests, other examinations, and interviews with the child.

**5299 DEFINITIONS**

For the purposes of this chapter, the term:

“Home Schooling” means an education program conducted, in compliance with this chapter, by the parent or legal guardian;

“OSSE” means the Office of the State Superintendent of Education, including any authorized OSSE designee.

“Parent or Legal Guardian” means a person having legal custody of a child or children; and

“Public School” means a District of Columbia public school, including public charter schools.

Persons wishing to comment on these proposed regulations should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4<sup>th</sup> Street, NW, Room 350N, Washington, D.C., 20001, and Attn: Ms. Stephanie Thomas, Private/Home School Specialist, Policy and Research Analysis. All comments must be received by the Office of the State Superintendent of Education not later than July 14, 2008. This proposed regulations and related information are available on the OSSE website at [osse.dc.gov](http://osse.dc.gov) and may be obtained by writing to the above address, or by calling the Office of the State Superintendent of Education at (202) 727-6436.