

## 05-071 DEPARTMENT OF EDUCATION

## Chapter 130: RULES FOR EQUIVALENT INSTRUCTION PROGRAMS

SUMMARY: This chapter outlines the procedures and standards governing the Commissioner's approval of proposed equivalent instruction programs, commonly referred to as "homeschooling", pursuant to 20-A M.R.S.A. 5001-A (3)(A).

## Section 1. DEFINITIONS

As used in this chapter, unless the content otherwise indicates, the following terms shall have the following meanings:

- A. Commissioner: "Commissioner" shall mean the Commissioner of the Department of Education or the Commissioner's designee.
- B. Equivalent instruction: "Equivalent instruction" shall mean a program of instruction approved under the requirements of the compulsory attendance law as an equivalent to attendance at a public school or an approved private school, as authorized by 20-A M.R.S.A. 5001-A (3) (A).
- C. School: "School" shall mean any regular instructional program conducted for the purposes of the compulsory attendance law which enrolls two or more unrelated students.
- D. School board: "School board" means the governing body with statutory powers and duties of a school administrative unit.
- E. School year: "School year" for the purposes of this chapter, is defined as a year, or part thereof, starting on September 1st and ending on the following August 31st.
- F. Tutor: "Tutor" shall mean the parent(s) or other person(s) who acts or will act as the primary teacher of the student in an equivalent instruction program.

## Section 2. SCHOOL BOARD POLICY

- A. The school board of every school administrative unit shall adopt a policy governing its role in the review and oversight of applications for equivalent instruction programs.
- B. A current copy of that policy shall be made available to all interested individuals upon request.

- C. The policy may require an annual review of each equivalent instruction program, including the annual assessment outlined in Section 3(J) by the school board or its designee.
- D. After July 1, 1992, school boards which choose to review and submit comments on the completeness of equivalent instruction programs may submit such comments to the Commissioner within thirty (30) days of the receipt of the application.

### Section 3. COMMISSIONER'S REVIEW OF EQUIVALENT INSTRUCTION APPLICATIONS

The Commissioner shall review all relevant material to determine if the student will be provided equivalent instruction within the meaning of 20-A M.R.S.A. 5001-A (3) (A). The Commissioner shall determine whether the plan includes the following:

- A. Competent instruction by a tutor who holds, or is eligible to hold, a certificate as a teacher in the State of Maine, or, competent instruction by a tutor who will be assisted by a satisfactory support system. The support system shall include one of the following:
  - (1) provision for a certified teacher to work with the tutor on a regular basis, at a minimum of four times during the school year;
  - (2) provision for the tutor to receive regular assistance, at a minimum of four times per year, from a public school or an approved private school;
  - (3) provision for the tutor to receive regular assistance and supervision, at a minimum of four times during the school year, from another approved home instruction program which has been in operation for a minimum of one school year; or,
  - (4) provision for other support systems approved by the Commissioner, such as, but not limited to, local area homeschool support groups;
- B. An instructional day of adequate length of time to accomplish the proposed educational program;
- C. An instructional year which meets at least the minimum number of days required by statute (175 days) ;
- D. A sample of a typical weekly instructional scheme describing the subject areas to be taught;
- E. A syllabus (curriculum outline) of the educational program which includes English/language arts, math, science, social studies, physical education,

health education, library skills, fine arts, and, in at least one grade between grades 6-12, Maine studies. The syllabus shall also include a provision, at one grade level between grades 7-12, for the student to demonstrate proficiency in the use of computers.

- F. A list or description of the instructional materials and textbooks which will be used by the student;
- G. The tutor's plan of assessment which will accurately and adequately measure the student's academic abilities and progress in the proposed educational program at least four times during the school year;
- H. A plan for record-keeping which charts the student's academic progress and records other pertinent information;
- I. An identification and description of the support system selected to carry out the objectives of the educational plan; and
- J. An annual assessment of the student's academic progress which shall include at least one of the following:
  - (1) provision for a standardized achievement test through the local school unit or through other arrangements approved by the Commissioner. If administered through the local school unit, such provision must be agreed to by the local school unit prior to submission of the equivalent instruction application;
  - (2) provision for a test developed by the local school unit appropriate to the student's educational plan. This provision must be agreed to by the local school unit prior to the submission of the equivalent instruction application;
  - (3) provision for a review and acceptance of the student's progress by an identified individual who holds a current Maine teacher's certificate;
  - (4) provision for a review and acceptance of the student's progress through, but not limited to, a presentation of an educational portfolio on the student to a local area homeschooling support group whose membership for this purpose includes a currently certified Maine teacher or administrator; or
  - (5) provision for the review and acceptance of the student's progress by a local advisory board selected by the superintendent which shall include one administrative unit personnel and two home instruction tutors. This provision must be agreed to by the local school unit prior to submission of the equivalent instruction application.

## Section 4. ADDITIONAL REQUIREMENTS

### A. Records

The records required by Section 3 (H) shall be maintained by the parents of the student until the home instruction program concludes. The records shall be made available to the commissioner upon request.

The dissemination of information concerning students receiving equivalent instruction through home instruction is governed by the provisions of 20-A M.R.S.A. Section 6001.

The education records of students receiving equivalent instruction through home instruction have the same status under the United States Family Education Rights and Privacy Act of 1974, (F.E.R.P.A.) and the Individuals With Disabilities Education Act (IDEA), as the education records of students in public and private schools, except that home instruction programs need not receive federal funds to be covered by F.E.R.P.A. These laws govern the dissemination of information about students, as well as applications for equivalent instruction through home instruction, comments on the completeness of those applications and all education records of students receiving equivalent instruction through home instruction.

### B. Filing Records

A copy of the results of the annual assessment required under Section 3 (J) shall be filed annually with the Commissioner and the local superintendent.

### C. Students in Need of Special Education

Applications for equivalent instruction programs may be submitted by parents or guardians regardless of the special education status of their children.

Each school administrative unit has the responsibility for identifying, locating, and evaluating all students within its jurisdiction who are in need of special education and supportive services, including students with disabilities attending private schools and equivalent instruction programs, regardless of the severity of their disabilities. Maine Department of Education Regulations, Ch 101, Section 4.7 “Responsibility for Students With Disabilities Enrolled By Their Parents in Private Schools or Receiving Homeschooling” governs Child Find and basic requirements for services. The provisions of such services may occur in the home at the discretion of the district, or at some other neutral site, including the public school.

D. Maine Educational Assessment

Equivalent instruction students may participate in the Maine Educational Assessment (MEA) but are not required to do so. If a parent of a student in an equivalent instruction program decides to have the student take the MEA, the student must do so at a local public school under standard testing conditions.

Section 5. APPLICATION PROCESS

A. Submission of Applications

Applications for equivalent instruction programs shall be submitted by a student's parent(s) or legal guardian to the Commissioner on a Department of Education developed application form for the appropriate school year, and shall include all supplemental material described in Section 3 of this chapter as well as a copy of the results of the annual assessment for the prior school year. All of the above mentioned materials must be submitted in order for the application to be considered a complete application. At the same time, the parent/legal guardian shall send a copy of the complete application to the local superintendent of schools.

B. Annual Filing of Applications

Applications for equivalent instruction shall be submitted annually and for a single school year.

C. Start of Equivalent Instruction Programs

Equivalent instruction programs may begin upon approval of the application by the Commissioner, or no later than the sixty (60) day period provided for Commissioner approval.

Section 6. APPROVAL PROCESS, AMENDED APPLICATIONS AND FILING OF APPEALS

A. Decision on Initial Application

Within 60 days of the receipt of a complete application, the Commissioner, using state criteria established by this chapter, shall decide whether to approve the equivalent instruction application.

B. Opportunity to Submit Amended Application

If an application is denied, an amended application may be submitted to the Commissioner within 30 days of the receipt of the denial. The notice shall state the reason for denial and shall inform the parent(s) of the right to submit an amended application.

C. Decision on Amended Application

The Commissioner shall make a decision on an amended application within 30 days of its receipt. If an amended application is approved, the parent(s) shall send a copy of the amended application to the local school unit for information purposes. If an amended application is denied, the notice of denial shall inform the parent that an appeal of the denial may be filed with the Commissioner within 30 days of receipt of the notice of denial.

Section 7. APPEALS PROCESS

A. Convening of State Level Appeals Advisory Board

Upon receipt of an appeal that has been filed within the time limits outlined in Section 6, the Commissioner shall convene a State Level Appeals Advisory Board to hear the appeal.

B. Composition of State Level Appeals Advisory Board

The Commissioner shall appoint one individual from the Department to chair the State Level Appeals Advisory Board, one individual from the administration of a school administrative unit, and three individuals who are currently conducting approved equivalent instruction programs.

C. Hearings and Recommendations

The State Level Appeals Advisory Board may hold a factfinding hearing and shall make a finding of facts, and shall forward these findings along with its recommendation to the Commissioner.

D. Decision on Appeals

The Commissioner shall inform both parent(s) and the superintendent in writing as to the final decision. If the appeal is denied, the decision shall be deemed a final agency action, within the meaning of the Maine Administrative Procedures Act, and appealable to the Superior Court. If the appeal is granted, the school unit shall treat the student as properly excused from public school attendance.

Section 8. TRANSFER OF APPROVAL

Equivalent instruction programs which have been approved while the parents reside in one school administrative unit are approved for the entire school year regardless of any change of residence by the family. If the equivalent instruction program is to continue in the next school year, application must be made in the school administrative unit where the family resides.

## Section 9. DISCONTINUATION OF HOME INSTRUCTION PROGRAM

In the event that the home instruction program is discontinued, students of compulsory school age must be enrolled in a public school, or an equivalent instruction alternative as provided for in 20-A M.R.S.A. 5001-A (3) (A)(1). The receiving school shall determine the placement of the student.

At the secondary level, the principal of the receiving school shall determine the value of the prior educational experience toward meeting the standards of the system of *Learning Results* in accordance with Chapter 127 Section 7.02(A)(5).

STATUTORY AUTHORITY: 20-A M.R.S.A. 5001-A (3) (A)

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