



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES  
STATEWIDE COORDINATOR FOR SPECIAL EDUCATION  
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July 2008

**To:** District Superintendents of Schools  
Superintendents of Public Schools  
Directors of Special Education  
Chairpersons, Committee on Special Education  
Parents, Individuals and Organizations Interested in the Education of  
Students with Disabilities  
Commissioner's Advisory Panel for Special Education Services  
Commissioner's Advisory Panel for Nonpublic Schools

**From:** James P. DeLorenzo *James P. DeLorenzo*

**Subject:** New Requirements for the Provision of Special Education Services to  
Home-Instructioned ("Home-Schooled") Students

This memorandum is to inform you that, pursuant to Chapter 217 of the Laws of 2008, which was signed by the Governor on July 7, 2008, students with disabilities who are in home instruction programs pursuant to section 100.10 of the Regulations of the Commissioner of Education are eligible to receive special education services from their school district. The new law resulted from proposed legislation advanced by the State Education Department.

Section 3602-c of the Education Law has been amended to add a new subdivision 2-c to deem home-schooled students with disabilities and students suspected of having a disability to be nonpublic school students solely for the purpose of receiving special education services during the regular school year.

To be eligible for special education services, a home-schooled student must be entitled to attend the public schools without payment of tuition pursuant to Education Law §3202(1). In addition, such student would be required to have an individualized home instruction plan (IHIP) that the superintendent of schools of the school district in which the home school is located has determined to be in compliance with section 100.10 of the Regulations of the Commissioner of Education. Where the student is educated at home, the school district of location is the same as the student's school district of residence.



School districts should notify all parents of students with disabilities who are in home instruction programs pursuant to section 100.10 of the Regulations of the Commissioner of Education that:

- For home-schooled students who are students with disabilities, the Committee on Special Education (CSE) would develop an individualized education services program (IESP) for the student. The IESP would be developed in the same manner and have the same contents as an individualized education program (IEP). An IESP is developed in consideration of the parents' decision to home school their child.
- In order to receive services in the 2008-09 school year, **a parent must submit a written request for such services to the board of education of the school district of location no later than August 6, 2008 of this year** (which is 30 days after this new law takes effect). For a student who is first identified as a student with a disability after the first day of June 2008 and prior to the first day of April of 2009, a parent must submit the written request for services within 30 days after the student is first identified. A request may also be submitted within 30 days of a change in the student's school district of residence.
- In subsequent years, the parent must request special education services in writing to the board of education of the school district of location by June 1 preceding the school year for which the request for services is made. However, for a student who is first identified as a student with a disability after the first day of June preceding the school year for which the request is made and prior to the first day of April of such current school year, the parent must submit the written request for services within 30 days after the student was first identified. A request may also be submitted within 30 days of a change in the student's school district of residence.
- Special education services must be provided to home-schooled students on an equitable basis as compared to special education programs and services provided to other students with disabilities attending public or nonpublic schools within the district.
- Parents of home-schooled students who disagree with the IESP recommendation of the CSE would be entitled to due process pursuant to Education Law section 4404 just as parents of nonpublic students are.
- A board of education determines the location where special education services will be available to home-schooled students, which could include the site of the home school.

Please share this memorandum with appropriate staff, including Directors of Special Education, CSE Chairpersons, Directors of Pupil Personnel Service, and

Principals as well as Parent Teacher Associations. If you have any questions about this information, please contact the Office of Vocational and Educational Services for Individuals with Disabilities (VESID), Special Education Policy Unit, at 518-473-2878 or your Regional Associate at one of the following VESID Special Education Quality Assurance Regional Offices:

Central NY Regional Office	(315) 428-3287
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(914) 245-0010
Long Island Regional Office	(631) 884-8530
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