

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL 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 the adoption of 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.

The notice of proposed Home Schooling regulations was published in the *D.C. Register*, 55 DCR 7125 (June 27, 2008). The proposed Home Schooling regulations were first issued for public comment in the *DC Register* at 55 DCR 5281 (May 2, 2008), with public comment ending on June 2, 2008. The proposed rules were the subject of testimony presented at a State Board of Education (SBOE) public hearing held on, March 5, 2008; and were discussed at two public working sessions in June 2008, focusing on comments and possible revisions. Over 2800 emails and written comments and 400 phone calls were received from across the United States as well as from District of Columbia residents. Following a review of all the comments and other input received from the public, the State Board of Education approved the proposed rules as final, at a public meeting held on July 16, 2008.

The final regulations are the same as the proposed rules published in June, including 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 final regulations include an administrative appeal process giving parents and legal guardians an opportunity to appeal in writing to the State Superintendent of Education.

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 final 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 final regulations provide a framework to differentiate bona fide home schooling programs from instances where a child may not be receiving 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 public comments received, the public meetings of the SBOE on these rules, 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, the rule making will become effective upon publication in the *D.C. Register*. This final regulations and related information are also available on the OSSE website at osse.dc.gov.

CHAPTER 52 DISTRICT OF COLUMBIA HOME SCHOOLING

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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 21st 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 15th 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 PARTICIPATION 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.