

# **Home Schooling Students with Disabilities - A Policy Analysis**

by

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# Home Schooling Students with Disabilities – A Policy Analysis

## Overview

More and more families throughout the nation are choosing to home school their children, including their children with disabilities. Laws relating to the home schooling of children with disabilities vary from state to state. Because home schooling is an evolving practice, state laws are not always clear and may appear to be contradictory. As a consequence, the precise responsibilities of states and local education agencies (LEAs) to provide special education services to home-schooled students are frequently contested in the courts. This policy analysis is intended to provide policymakers with updated information regarding current trends in home schooling as well as to highlight significant policy issues relating to the home schooling of children with disabilities. A chart summarizing each state's current policies regarding home schooling and special education is included.

This document was produced by Project Forum at the National Association of State Directors of Special Education (NASDSE) as part of its cooperative agreement with the U.S. Department of Education's Office of Special Education Programs (OSEP).

## Methodology

This document updates an analysis conducted five years ago by Project Forum of state policies pertaining to the home schooling of students with disabilities (Project Forum, 1998).<sup>1</sup> Project Forum sent copies of each state's policies, used in the preparation of its 1998 report, to State Directors of Special Education, who were asked to provide information regarding any changes made in the last five years. Thirty-one states responded and 10 reported policy changes. For the remaining 19 states, Project Forum staff consulted an annually updated resource produced by the Home School Legal Defense Association (HSLDA) that includes each state's legal requirements for home schooling (Klicka, 2003).

## Home Schooling Defined

There is little consensus among grassroots organizations and states about the definition of home schooling. For the purposes of this document, home-schooled students are defined as those students whose educational program is managed primarily by their families. These students may receive all of their schooling at home, be enrolled part-time in campus-based schools or virtual schools or share instruction with other families. Home schooling does *not* include home or hospital bound instruction necessitated by a student's health condition.<sup>2</sup>

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<sup>1</sup> Non-state jurisdictions were not included in the 1998 analysis or the analysis summarized in this document.

<sup>2</sup> Several of the studies cited in this document define home-schooled students somewhat more narrowly – e.g., including only those students who are not affiliated in any way with public school systems or only those who are enrolled in schools for less than 25 hours per week.

## **Incidence of Home Schoolers**

Current estimates of the number of home schoolers range from approximately 850,000 (Bielick, Chandler, & Broughman, 2001) to 1.7 million (Ray, 1999). Home schoolers account for 1.7 to 2.2 percent of students nationwide (Belfield, 2002; Bielick et al., 2001) and represent approximately 10 percent of the privately-schooled population (Lines, 1999). However, because many families of home-schooled children refuse to file with state education agencies (SEAs) or LEAs for ideological reasons, it is difficult to determine the exact number of home schoolers. According to one study, as many as one-third of home schoolers may choose to remain “underground” in order to avoid regulation or monitoring (Ray, 1999).

## **Growth in Home Schooling**

The home schooling movement continues to grow. According to one study, the number of home-schooled students increased threefold between 1994 and 1999, from approximately 400,000 to approximately 1.2 million (Nemer, 2002). Another study estimates that home schooling is growing at a rate of 15 percent per year (Kennedy, 1997).

## **Demographic Characteristics**

Although the home schooling movement originated with a relatively homogeneous sector of the population—white middle-class Christian families—the movement now appears to include a more diverse range of families (McDowell et al., 2000). For instance, approximately 25 percent of home schoolers now come from non-white families (Bielick et al., 2001). The education level of families that home school appears to be above the national average, and a high percentage of home-schooled students live in two-parent families where only one parent participates in the labor force (Bielick, 2001; Rudner, 1999). In one study focusing on the first child in a family to receive home schooling, the majority of families reported that their child had attended public or private school at some time prior to receiving home schooling, and nearly 40 percent of these families reported that their child experienced learning and/or behavior difficulties while attending school (Lange & Liu, 1999).

## **Academic Outcomes**

Limited research exists comparing the academic outcomes of home-schooled students to those educated in traditional schools. Furthermore, the few existing outcome studies may suffer from selection bias since all are based on a self-selected group of home schoolers who are more likely to be high achievers (Belfield, 2004).<sup>3</sup> One study of 20,760 home school students, funded by Bob Jones University, found that average achievement test scores for home-schooled students were in the 70<sup>th</sup> to 80<sup>th</sup> percentile for all academic areas (Rudner, 1999). The study also found that almost 25 percent of home-schooled students enrolled one or more grades above their age-level peers in public and private schools. A second study, sponsored by HSLDA, also found that home-schooled students scored above average on achievement tests (Ray, 1999).

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<sup>3</sup> Of the two outcome studies cited in this document, it should be noted that both were sponsored by institutions or organizations advocating home schooling.

## **Reasons for Choosing Home Schooling**

Commonly cited reasons families choose home schooling include differences in educational philosophy; religious beliefs; poor school climate; and childrens' special needs including disabilities, learning difficulties and social or emotional problems (Bielick et al., 2001; Lange & Liu, 1999).

## **Trends in Home Schooling**

Recent trends in home schooling—dual enrollment, home schooling collaboratives and virtual schools—provide families with additional educational choices. At the same time, these trends challenge state- and local-level policy makers to address increasingly complex policy issues.

### *Dual Enrollment*

Families are more frequently opting for educational arrangements described variously as “dual enrollment,” “shared schooling” or “assisted home schooling.” For instance, some LEAs allow home schoolers to attend public school part-time and/or engage in extra-curricular activities. Other LEAs have established centers at which families may enroll in classes or obtain resources and instructional support.

Many nonpublic schools, some public schools, and the state of Alaska provide home schoolers with texts, materials and support (Lines, 2003). A number of families seeking dual enrollment are those who have children with special education needs and, in response to this, many LEAs are developing specialized programs to assist home schoolers with disabilities (Dahm, 1996; Duffey, 1999).

### *Collaboratives*

“Collaboratives” or “umbrella institutions” are also increasingly popular. Many of these collaboratives began informally as a way for families to exchange services (e.g., one parent might provide history lessons in exchange for another providing music lessons) or to involve their children in group activities (e.g., soccer teams or theater productions). In a number of states (e.g., California, Arizona and Michigan) several such collaboratives have become chartered and are now operating as public schools. Some home-schooling groups have also created management firms offering to create new public charter and/or private schools that coordinate parent efforts and reflect the values associated with home schooling. Advantages of such collaboratives include the following: parents can spend less time home schooling their children; their children benefit from others' expertise; and public funds may be made available to pay for materials, facilities, internet hookups and assessments (Hill, 2000).

### *Virtual Schools*

A relatively new form of distance education known as “virtual schools” or “cyber schools” offers home schoolers a wide array of online courses. Families of home schoolers, particularly families in which both parents are working full-time, are increasingly turning to online curricula to

supplement or even replace more traditional approaches to home schooling (Hadderman, 2002). Many virtual schools are designed to provide courses that may not otherwise be available to students in rural areas (e.g., advanced placement courses). Virtual schools may be operated at the state-level, by LEAs, universities or private organizations. Some virtual schools operate as charter schools.<sup>4</sup>

## **Home Schoolers with Disabilities**

### *Incidence*

Because most studies of home schooling make little mention of students with disabilities, it is difficult to determine the number of students with disabilities who participate in them. According to one study of students being home-schooled in Minnesota, 10 percent of surveyed parents reported that at least one of their children received special education services in public or nonpublic school settings prior to being home-schooled (Lange & Liu, 1999). If this figure is representative of the nation, the total number of children with disabilities receiving home schooling could be as high as 170,000.

Research indicates that home-schooled students appear to have a wide range of disabilities, including specific learning disability (SLD), attention deficit disorder or attention deficit hyperactivity disorder (ADD/ADHD), mental retardation, emotional disturbance, autism spectrum disabilities, and speech and language impairments (SLI) (Duffey, 2002; Reinhiller & Thomas, 1997).

### *Family Characteristics*

The demographic characteristics of families home schooling children with disabilities are, for the most part, similar to those of the home schooling population at large, with the exception of greater ethnic diversity among families of children with disabilities (Duffey, 2002).

Another difference is that families of children with disabilities demonstrate greater willingness to utilize services and resources provided by campus-based schools (Duffey, 2002). For example, the home-schooled child with a disability spends 3.6 years on average in conventional schools (Duffey, 2002); whereas, the home-schooled child without disabilities spends only .4 years on average in conventional schools (Ray, 1997 as cited in Duffey, 2002). In addition, Duffey (2002) found that 24 percent of home-schooled children with disabilities were enrolled on a part-time basis in public or nonpublic schools.

### *Academic Outcomes*

Information regarding the academic outcomes of home schoolers with disabilities is extremely limited. One exception to this is a study of ten students by Duvall et al. (1997) that compared the academic achievement of home-schooled students with SLD and public school students with SLD. Findings indicate that home-schooled children with SLD were more academically engaged

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<sup>4</sup> For more information on virtual schools and students with disabilities, see the Project FORUM document authored by Müller & Ahearn, *Virtual Schools and Students with Disabilities* (2004).

than their public school-educated peers, spent significantly more one-on-one time with teachers, and made significant gains in reading and writing as measured by standardized tests, while their public school peers experienced losses in reading and only small gains in writing. In math, both groups made equivalent gains. No empirical research has yet documented academic outcomes for home-schooled students with other types of disability and evidence supporting home schooling for students with SLD remains limited.

### *Reasons for Choosing Home Schooling*

A number of studies suggest that the need for special education plays a significant role in parents' decisions to home school their children (Duffey, 2002; Ensign, 2000; Gray, 1993; Knowles, Muchmore & Spaulding, 1994; Lange & Liu, 1999). For instance, 22 percent of families reported that the presence of a learning problem, behavior problem or disability entered into their decision to home school their child (Lange & Liu, 1999). Parents claim that home schooling allows them to provide their special needs children with a superior education – including one-on-one support, individualized instruction, and selection of curricular materials that fit their children's abilities and interests (Duffey, 2002; Ensign, 2000; Lange & Liu, 1999). Parents also report that home schooling helps reduce behavior and motivation problems (Ensign, 2000).

An Internet search yielded dozens of websites and support groups, managed by parents of children with disabilities, designed to provide information and educational resources for parents who home school children with disabilities. Furthermore, membership in the National Challenged Homeschoolers Associated Network (NATHHAN)—an information and resource network for families home schooling children with special needs—has more than tripled in the past five years. Membership, according to its director, currently numbers over 14,000 families.<sup>5</sup>

### **State Policies**

In all 50 states, home schooling is a legal option and 37 states have adopted home school statutes or regulations. The following examples come from the most up-to-date version of the HSLDA document summarizing state home schooling laws (Klicka, 2003):

- In at least 14 states, individual home schools may operate as nonpublic schools; in five additional states, *groups* of home schoolers, rather than individual home schools, qualify as nonpublic schools.
- Nine states require that home school parents meet specific teacher qualifications (e.g., possession of a high school diploma or graduate equivalency diploma [GED]).
- Twenty-four states require either standardized testing or alternative evaluation if the family is operating under the home school law.
- Six states require the amount of instruction time to be equivalent to public school instruction time.
- Eight states allow home schoolers to obtain some type of religious exemption from compulsory school attendance laws.

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<sup>5</sup> This figure was provided by Tom Bushnell, Director of NATHHAN, via personal correspondence on November 24, 2003.

Forty-one states require that parents notify an SEA or LEA of their intent to educate their children at home and identify the children involved. However, many families do not file any paperwork with state or local officials because their home-schooled child is not old enough to come under the state's compulsory school attendance law and therefore the state's law does not require filing.<sup>6</sup>

### **Recent Trends in Home Schooling Policy**

Although it was not within the scope of this document to conduct a year-by-year analysis of changes in state policy, the authors noted several emerging trends in home schooling policy.

States increasingly allow home schools to be operated under more than one regulatory option. For example, Virginia allows home schools to operate under the home school statute, religious exemption statute, certified tutor statute or as private or denominational schools. Tennessee allows home schools to operate as independent home schools, home schools associated with a church-related school or as satellite campuses of a church-related school. Delaware allows home schools to operate as single-family home schools, multi-family home schools or single-family home schools coordinated with the local school district. In these states, as with others, a variety of regulatory options mean that families can opt for more or less involvement of LEAs and/or SEAs in their children's education.

State policies are also less likely than five years ago to require specific teacher qualifications. For example, both Minnesota and Tennessee used to require that home schooling parents possess a high school diploma or GED, complete a baccalaureate degree, complete a teacher equivalency exam, and/or be directly supervised by a licensed teacher. Policy changes in these and other states have resulted in the elimination of such teacher requirements.

A third trend in home schooling policy involves changes to accountability requirements. A number of states have either introduced accountability requirements where none existed before (e.g., Virginia) or created additional testing options (e.g., Colorado, Florida and Tennessee all permit a variety of ways in which academic progress may be measured). Several states have policies requiring probation and/or removal from home schools if students fail to show adequate academic progress after a certain period of time (e.g., South Dakota and Virginia). New Mexico is the only state to have eliminated accountability requirements for home schoolers during the past five years.

Recent changes to home schooling policy appear to reflect two contradictory trends. One trend is towards decreasing regulation of home schooling and/or a greater variety of regulatory options – a result of efforts by home schooling advocacy groups such as HSLDA. A second trend is towards increasing regulation – greater accountability as a result of the No Child Left Behind Act of 2001 (NCLB) and the pressure on states to show adequate academic progress on the part of *all* students, including home schoolers.

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<sup>6</sup> Although most states require school attendance at five or six years of age, several do not require school attendance until eight years of age.

## Policy Issues Pertaining to Home Schoolers with Disabilities

The Individuals with Disabilities Education Act (IDEA) does not specifically address the home schooling of children with disabilities. Many state statutes and regulations, however, either address the home schooling of children with disabilities specifically or carry implications for the schooling of these children. Examples of these are discussed in the following sections.

### *Permission to Home School Students with Disabilities*

All states permit home schooling of students with disabilities. In some states, however, provisions are stricter than those for students without disabilities. Iowa, for instance, requires written permission of the local director of special education in order for a child with a disability to receive home schooling. California requires approval by the individual education program (IEP) team. Pennsylvania requires approval by a certified special education teacher or school psychologist. In Vermont, home schooling families of children with disabilities must describe in writing how appropriate support will be provided in lieu of traditional special education services. In North Dakota, the only children with disabilities who are legally permitted to receive home schooling are those diagnosed with autism.

### *Eligibility for IDEA Services*

IDEA funding for special education and related services is available for children with disabilities who attend either public or nonpublic schools. In some cases, home-schooled students with disabilities are also eligible for IDEA services.

In most states, eligibility hinges on whether or not home schools are classified as nonpublic schools. The U.S. Department of Education's Office of Special Education Programs (OSEP) issued a policy letter in 1992 stating that the "determination of whether a home education arrangement constitutes nonpublic school placement must be made on the basis of state law."<sup>7</sup> For excerpts from this policy letter and others from OSEP pertaining to the home schooling of students with disabilities, see Appendix A. In 1998, the Ninth Circuit, in *Hooks v. Clark County School District*, found that home schoolers with disabilities may be excluded from IDEA funding if they reside in states whose definition of nonpublic school does not include home schools [228 F. 3d 1036 (9<sup>th</sup> Cir, 2000), cert. denied, 121 S. Ct. 1602 (2001)].

Under IDEA, students with disabilities enrolled in nonpublic schools do not have the same entitlement that the law provides to public school students [34 CFR §300.454(a)]. Therefore, in states where home schools are considered nonpublic schools, laws pertaining to parental placement within nonpublic schools apply [34 CFR §300.450-462]. However, in those states where the definitions of nonpublic school and home school are mutually exclusive, LEAs are not federally obligated to provide IDEA services to home schoolers with disabilities. In the 19 states that classify either individual home schools or groups of home schoolers as nonpublic schools, however, families do have the option of receiving IDEA services.

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<sup>7</sup>OSEP Letter to Williams, 18 IDELR 742, as cited in Project FORUM, *Home schooling and students with disabilities* (1998).

Most states also allow students with disabilities who are home-schooled to receive special education and related services at their local public school under arrangements such as dual enrollment described previously in this document. For instance, Idaho explicitly permits dual enrollment in general education courses by home-schooled students with disabilities.

### *Special Education Evaluation and Child Find*

In order to receive IDEA funding, states must have Child Find procedures in place to locate, identify and evaluate children who are suspected of having disabilities [34 CFR §300.125]. In 1993, OSEP issued a letter advising LEAs to include home-schooled children in their Child Find efforts.<sup>8</sup>

Some states, such as Arkansas and Maryland, specifically state that LEAs must provide a “genuine opportunity” for home schoolers to access special education and related services. The LEA’s obligation in these states, however, is merely to make evaluations *available*. As is true for all children, if the family of a home-schooled child does not consent to evaluation, the LEA cannot require it without a due process hearing.

### *Teacher Qualifications*

No state requires teaching certificates to home school a child with disabilities. However, as mentioned earlier, 11 states require that home school parents meet specific teaching requirements. North Dakota, for instance, requires that the person responsible for home schooling either be licensed, directly supervised by a licensed teacher, complete a teacher competency exam or hold a baccalaureate degree. Alabama and Colorado are states that require state certification only if the parent chooses to qualify as a home tutor. Iowa requires that instruction either be delivered or supervised by a licensed teacher *or* yield “measurable satisfactory results.”

### *Accountability*

IDEA does not mention assessment requirements for students who are either home-schooled or parentally placed in nonpublic schools. NCLB, however, explicitly states that no student schooled at home shall be required to participate in any assessment referenced in that law [20 USC §7886(b)].

As mentioned above, 24 states require some sort of assessment for *all* home-schooled students. North Dakota, for example, requires that home-schooled students, including those with disabilities, participate in standardized testing in grades 4, 6, 8 and 10. Test results must be made available for inspection on request, and if a student’s composite scores fall below the 30<sup>th</sup> percentile, the child must be professionally evaluated for a potential learning disability by a multidisciplinary assessment team.

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<sup>8</sup> OSEP Letter to Stohrer, Mar. 31, 1993, as cited in Project FORUM, Home schooling and students with disabilities (1998).

Several states, however, have specific requirements regarding assessment of home schoolers with disabilities. Oregon, for instance, requires that satisfactory academic progress be shown for children with disabilities, although testing of these students is not required unless recommended in the IEP or privately developed plan. Arkansas also specifies that inclusion in testing is to be determined by the student's IEP team. North Dakota requires that parents who are home schooling a child with autism file progress reports three times each year by a psychologist, occupational therapist, speech and language therapist and certified teacher. Colorado requires that LEAs provide accommodations in testing home-schooled students with disabilities.

### *Data Collection*

IDEA mandates that SEAs report annually on the educational environments in which students with disabilities receive educational services (e.g., resource rooms, self-contained special education classrooms or separate schools) [20 USC §618(a)]. This raises the question as to whether hours spent within the home environment should be reported as time within a regular classroom or as time within a separate special education environment. According to the data manager for the Oregon Office of Special Education, most LEAs in Oregon are opting to report home schooling hours as time within a regular classroom.<sup>9</sup>

### **Addressing the Needs of Home Schoolers with Disabilities**

In response to the growing numbers of home schoolers, states are adopting regulations to accommodate home schoolers' needs. Furthermore, both states and LEAs are making proactive efforts to partner with families of home schoolers with disabilities. For instance, in addition to offering special education and related services to home-schooled students, several LEAs in Iowa provide advice on home schooling curriculum and instruction, a certified visiting teacher, free annual standardized testing and annual written evaluations (Duffey, 2002). Washington and Oregon have implemented similar programs, and California has created several charter schools specifically to address the needs of home schoolers with disabilities (Duffey, 2002).

### **Concluding Remarks**

The number of families choosing to home school their children, including children with disabilities, is increasing and this population is becoming more diverse. Therefore, it is important for states and LEAs to address the policy implications related to this growing educational trend. One of the policy issues that must be considered is the inclusion of this student population in state and local accountability efforts as mandated by NCLB and IDEA. This is a challenging issue because of the range of home schooling arrangements even within a single state (e.g., "church school" versus "private tutor" options). The trend towards more flexible policies pertaining to home schooling makes the challenges of accountability even greater. Also, the increasing number of home-schooled students with disabilities and different home schooling arrangements create challenges for the setting of state policy related to the provision of special education services.

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<sup>9</sup> Correspondence with Bruce Bull on the IDEA Part B data managers' listserv, September 9, 2003.

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The following chart provides state-by-state information on home schooling policies relating to students with disabilities. The first column, “Laws/Regulations Permitting Home Schooling,” lists the various statutory options under which families may choose to home school their children.<sup>10</sup> The second column, “Notice to Public Authorities,” includes information on requirements for notifying state or local authorities regarding the intent to home school. The third column, “Teacher Requirements,” includes information on teacher requirements for parents and/or other individuals who responsible for home schooling. The fourth column, “Documentation of Student Progress,” includes requirements for testing and/or other documentation of student progress (e.g., portfolios). The final column “Laws, Regulations and Guidelines on Students with Disabilities,” includes any laws/regulations/guidelines pertaining to the home schooling of students with disabilities.

### State Home Schooling Policies Relating to Students with Disabilities

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
AL	(1) Church school (2) Private tutor	Must report attendance under church school option or file under private tutor option	State certification under tutoring option; none under church school option	None	School district of residence must make special education and related services available in conformance with an IEP
AK	(1) Home school (2) Tutor (3) Correspondence study (4) Other educational experience (5) Religious or private school	Must notify under private school option, but not under home school option	Certification required for tutor option only	None under home school option. Under the private school option, standardized testing is required in 4 <sup>th</sup> , 6 <sup>th</sup> and 8 <sup>th</sup> grades and results must be made available to Department of Education on request.	None

<sup>10</sup> This chart only includes information on options specifically included in state laws and/or regulations. In several states, court cases have reinterpreted state law to include additional options (e.g., the right to home school under a non-public school option). Court cases, however, are not included in Project FORUM’s analysis.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
AZ	Home school	Initial affidavit of intent	None	None	None
AR	Home school	One-time notice of intent and waiver releasing state from any future liability for the education of the child	None	Nationally recognized achievement test selected by State Board during grades in which state mandates norm-referenced tests; no minimum score required	Districts must provide a genuine opportunity for home schoolers to access special education and related services. Inclusion in testing is decided by the student's IEP committee.
CA	(1) Private school (2) Private tutor (3) Independent study (4) Private school satellite program	Private school affidavit must be filed with Superintendent of Public Instruction at beginning of each school year	Only under private tutoring option - tutor must have valid CA teaching credential for grade level	None	Students with disabilities may participate in independent study only if their IEPs provide for this.
CO	(1) Home school (2) Independent or parochial school	Annual notification; parents have choice to file with any district in state	None, but if teacher from Option 1 or 2 possesses a valid credential, then the school is exempt from the other requirements for Options 1 and 2	Option to use standardized achievement test for grades 3, 5, 7, 9, and 11 with score above 13 <sup>th</sup> percentile; <i>or</i> be evaluated for grades 3, 5, 7, 9 and 11 by a certified teacher, teacher employed by a private school, licensed psychologist, or person with a graduate degree in education	District should provide written notification when a student with a disability is home-schooled that the district is no longer required to provide special education or related services. All provisions of the home schooling law apply to these students and the district must provide accommodations in testing the student.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
CT	Home school	Initial notice of intent to local superintendent	None	Annual portfolio review with school officials	None
DE	(1) Single-family home school (2) Multi-family home school (3) Single-family home school coordinated with local school district	Must report attendance information and annual statement of enrollment on forms prescribed by Department of Education	None	None	None
FL	(1) Home school (2) Private tutor (3) Private school (only permitted for group of home schools)	Notice to district; as well as notice of termination	None for parents	Evaluation of portfolio and discussion with student by certified teacher; <i>or</i> nationally-normed achievement test; <i>or</i> state assessment; <i>or</i> evaluation by licensed psychologist; <i>or</i> any other valid measurement tool agreed upon by superintendent. Continuation in home school is contingent on adequate progress.	None
GA	Home school	Annual notice of intent and records of attendance to superintendent monthly	Parent must have at least a high school or GED diploma, or employ a tutor with baccalaureate degree	Annual progress report; standardized achievement test every 3 years starting in 3 <sup>rd</sup> grade but scores do not have to be reported	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
HI	Home school	Initial notice of intent; record must be kept of planned curriculum; notification of termination	None for parent; bachelor's degree for anyone other than parent	Annual progress report turned in to local principal; standardized achievement test of parent's choice in grades 3, 6, 8, and 10	None
ID	"Otherwise comparably instructed"	No notice required	None	None	Home schoolers are included with nonpublic school students. Dual enrollment in general education courses allows for students with disabilities on same basis as other students; students with disabilities may also receive special education and related services at the public school site.
IL	Private or parochial school	No notice required, but parents may be asked to provide a "statement of assurance of good faith" on a voluntary basis.	None	None	Same exemptions and requirements for equivalent education apply to home-schooled child with disabilities as to any home-schooled child
IN	Private school	Parent must keep attendance records and furnish upon request of state the number of children by grade receiving home schooling	None	None	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
IA	Home school	Parent must file "Competent Private Instruction Report Form," including name and age of child and outline of course of study.	None if parent is providing the instruction; otherwise, education must be delivered or supervised by a licensed teacher.	None if licensed teacher is involved. If no licensed teacher is involved, a standardized test or portfolio review is required.	"Competent Private Instruction" in the home is allowed "with the written approval of the director of special education of the area education agency."
KS	(1) Private, denominational or parochial school (2) Satellite of private school	Must register as a "non-accredited" private school	Parent must be a "competent" teacher, but local board has no authority to evaluate competence of an instructor.	None	None
KY	Private, parochial or church school	Notification required to local education board; must keep attendance register; home school subject to inspection by officials of Department of Education	None	None	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
LA	(1) Home school (2) Private school	Under home school law must submit application to certify curriculum equivalent to public school and renew annually by providing supporting material on instruction and student work; <i>or</i> notification of enrollment in private school	None	A renewal application shall be approved if child passes LA assessment test; <i>or</i> child scores at grade level on approved standardized test; <i>or</i> certified teacher writes statement assuring that child is being taught in accordance with sustained curriculum.	A renewal application for a child with a disability may be approved if a certified teacher writes a statement guaranteeing that the student's curriculum is "at least equal to that offered by public schools to a child of similar disabilities."
ME	(1) Home school (2) Non-approved private school (only groups of home schools are eligible for this option)	One-time notice of intent required; annual letter enclosing year-end assessment and stating intention to continue home schooling	Under home schooling option, no teacher requirements; under non-approved private school (NAPS) option, NAPS administrator must approve teacher competence	Under home schooling option, results must be submitted from (1) national standardized achievement test; (2) test developed by a local school official; <i>or</i> (3) review of progress by certified teacher, home school support group that includes certified teacher or an advisory board convened by superintendent. None under NAPS option.	Schools must inform parents of home-schooled students with disabilities of the availability of a free appropriate public education, review the special education needs of that student, develop an IEP and advise parents of their rights.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
MD	(1) portfolio (2) church umbrella (3) state-approved school umbrella	Parent must sign "Notice of Consent" form indicating the home school is operating under one of the three options.	None	Under "portfolio" option, must maintain portfolio of student work; local superintendent may review it at any time and terminate home schooling if instruction is deemed deficient	Schools must provide home-schooled students a genuine opportunity for equitable participation in public school special education programs. At a minimum, the same requirements prevail as for students placed in private school by their parents.
MA	Home school laws/regulations subject to discretionary "approval" of superintendent or school committee	Local superintendent must approve home instruction.	None	Submission of annual standardized test results <i>or</i> alternative form of assessment (e.g., portfolio, assessment by a certified teacher of parent's choice)	As of December 2003, guidelines were being drafted.
MI	(1) Home school (2) Nonpublic school	None	None under home school option; certification required under non-public school option for those without religious objections	None	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
MN	Home school; however, home school may or may not be accredited by a recognized MN accreditation association	Annual report to superintendent of child's name, age, grade, and instructor qualifications	None	Accredited home schools do not need to administer standardized tests. Students not enrolled in an accredited school must be assessed using a nationally-normed standardized test ; child who scores below 30 <sup>th</sup> percentile must be evaluated for learning problems. Test results need not be submitted.	None
MS	Home school	Annual certificate of enrollment, including child's name, age, and description of type of education child will be receiving	None	None	None
MO	Home school	Voluntary notice of enrollment; no more than four unrelated pupils in a home school; maintenance of records of instruction (but not submission), portfolios of work	None	Maintain record of evaluations of child's progress	Districts may provide special education to home schoolers and receive state aid based on the full-time equivalent daily attendance of the student.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
MT	Home school	Annual notification and maintenance of records of attendance, immunization, course of study	None	None	None
NE	Private, denominational or parochial school	Each parent must file notarized Parent or Guardian Form, as well as annual notarized Parent Representative Form providing assurance to the superintendent on subjects taught, attendance and safety standards.	None unless a teacher hired by family	None	None
NV	Home school	Written evidence that child is receiving equivalent instruction; description of who will teach and materials used; annual notification must include children's names and ages	None	None	Nevada does <i>not</i> recognize home schooling as a private school. Home schoolers do not have an individual right to program benefits under IDEA or state laws, nor to benefits available to those voluntarily placed in private schools.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
NH	Home school	Annual notice to commissioner of subjects and materials, and maintenance of a portfolio	None	Annual reporting of results from either an achievement test or state assessment (at or above 40 <sup>th</sup> percentile); <i>or</i> written evaluation by a certified teacher or current non-public school teacher; <i>or</i> evaluation by other valid measurement tool mutually agreed upon	None
NJ	Considered under the category "elsewhere than in school"	Evidence of equivalent instruction only if requested by superintendent	None	None	District must provide an evaluation if requested and may offer services (permitted, but not mandated).
NM	Home school	Annual statement to state superintendent of intent, and maintenance of attendance and immunization records	Parent must possess high school diploma or its equivalent.	None	Parent contacts local superintendent to obtain special education services. District determines services to be provided, with input from parent, and specifies services in a service plan. No entitlement to special education services exists.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
NY	Home school	Annual notice of intent in an Individualized Home Instruction Plan; records of attendance; quarterly reports about instruction and evaluation in each subject (there are required subjects for each grade level)	Parent is a "competent" teacher if regulations are followed.	Annual assessment including achievement test results <i>or</i> alternative evaluation by certified teacher, home instruction peer review or other person. In grades 1-3, alternative evaluation may be used. In grades 4-8, alternative evaluation may be used every other year. In grades 9-12, standardized testing required each year. Parent may choose from five approved standardized tests and test results must be filed.	<i>Q&amp;A on Home Instruction</i> contains 15 specific instructions pertaining to students with disabilities.
NC	Home school	Initial notice, maintenance of attendance and immunization records	Parent must have a high school diploma or a GED.	Annual standardized test that must be available for inspection upon request	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
ND	Home school	Annual notice of intent; children's names and ages; instructor qualifications; and maintenance of records of courses	Parent must be certified in ND, hold a baccalaureate degree, meet cut-off score of the national teachers exam, <i>or</i> have a high school diploma or GED and be monitored by a certified teacher for first two years and thereafter unless composite score of child on standardized achievement is at least in 50 <sup>th</sup> percentile.	Must maintain records of child's academic progress; standardized achievement test in grades 4, 6, 8 & 10 by a certified teacher and results provided to district. If score is below 30 <sup>th</sup> percentile, child must be professionally evaluated. If no disability is found, a remediation plan must be filed.	Children with "developmental disabilities" may not be home-schooled, except those with autism. The parent who is home schooling an autistic child must file a diagnosis, an instructional plan and progress reports by a psychologist, an occupational therapist, a speech therapist and a certified teacher on 11/1, 2/1 and 5/1 each year.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
OH	(1) Home school (2) Non-chartered school (08 School)	Annual notification with assurance that "Required Subjects" will be included; an outline of intended curriculum and texts or materials to be used; and hours and qualifications	Under Option 1, teacher must have a high school diploma or GED, or parent must be directed by a person with a baccalaureate until child's testing demonstrates "reasonable proficiency." Under Option 2, teacher must have bachelor's degree or equivalent or may work as "teacher's aide" to parent with degree.	Under home schooling option, a standardized test must be administered by a certified teacher, public school, person mutually agreed upon or person authorized by publisher of test; <i>or</i> portfolio assessment must be written by certified teacher or person mutually agreed upon; <i>or</i> an alternative assessment must be agreed upon by parents and superintendent. For non-chartered school option, no assessment is required.	None
OK	State constitutional amendment guarantees the right to home school; court decisions have established that the state has no jurisdiction in home schooling	None	None	None	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
OR	Home school	One-time notification to educational service district, including child's name and age	None	Standardized test administered in grades 3,5,8, 10 by a qualified neutral person. No testing in first 18 months regardless of grade. If requested by superintendent of education service district, results must be submitted. If child's achievement is below the 15 <sup>th</sup> percentile, district may order child to attend school or be supervised by a certified teacher.	Children with disabilities may be evaluated for satisfactory educational progress according to the method recommended in the IEP or privately developed plan. No testing of these students required unless recommended in IEP.
PA	(1) Home school (2) Private tutor (3) Day school/ church school	Under home school option, parent must file annual notarized affidavit with local superintendent and evidence of immunizations; under other options, no notification is required.	Parent/supervisor must have a high school diploma or its equivalent if students are not enrolled in a day school. Certification required under private tutor option.	Students not enrolled in a day school must be given a standardized test in grades 3, 5, and 8 and results submitted with an annual portfolio. The child's parent or guardian may not administer tests.	Instruction for any student identified under law as needing special education services (except gifted and talented) must be approved by a teacher certified in special education in the state or by a certified school psychologist. Written notice of the approval must be included in the notarized annual statement that the parent must submit to the district.

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
RI	(1) Operate under home school laws/regulations subject to discretionary approval. (2) Private school satellite program (only available in certain districts)	Local district has approval authority; teaching must be in the "required subjects;" an attendance register must be kept and period of attendance must be substantially equal to that of the public schools	None	Not required by law, but districts can require some type of evaluation under their approval authority. Parent preference for measurement must be accommodated.	None
SC	(1) Home instruction approved by district board of trustees (2) Affiliation with SC Association of Independent Home Schools (3) Affiliation with other association for home schools	Under Option 1, provision of approved program by the parent with records kept, and curriculum and hours met. Under Options 2 and 3, enrollment sufficient.	Parents must have a high school diploma or a GED.	None for those enrolled in an association; others must participate in annual statewide testing and the Basic Skills Assessment Program.	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
SD	Treated as "alternative instruction programs"	One-time notice of home schooling on a state form notarized by parent and describing content of instruction; no individual may teach more than 22 children	None	Standardized achievement tests required for grades 2, 4, 8 and 11; may be monitored by school district. If subsequent test results reveal unsatisfactory progress, school board may refuse to renew child's certificate of excuse for alternative instruction.	None
TN	(1) Home school (a) notify public school (b) associate with church-related school (2) Satellite campus of church-related school	Under Option 1a, annual notice of intent that contains names, immunization proof, location, curriculum, hours of instruction and qualifications of teachers. Attendance records must be kept. Under Option 1b, only children in grades 9-12 must be registered with local school district. Under Option 2, no notification or registration is required.	Under Option 1a, parent must have a high school diploma or GED for elementary level and college degree for grades 9-12 or request an exemption. Under Option 1b there are no qualifications for K-8, but parent must have high school diploma or GED to teach 9-12. Under Option 2, no qualifications.	Under Option 1a and b, standardized test administered by state or district-approved agency in grades 5,7 and 9. Under Option 2, standardized testing required in grades K-12. There are detailed follow-up requirements for various scoring levels. If operating as a satellite campus of a church school, no testing required.	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
TX	Private or parochial school	Education must be conducted in a bona fide manner using a written curriculum consisting of reading, spelling, grammar, math and a course in good citizenship.	None	None	None
UT	(1) Individual home schools operate under home school laws/regulations and are subject to discretionary approval. (2) Groups of home schoolers may operate as private school.	Annual request for exemption to be taught at home; <i>or</i> can operate as a private school with no state involvement or notification requirements	None	None	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
VT	Home school	Annual written enrollment notice to commissioner with outline of content to be provided and, in the first year, "independent professional evidence on whether the child is handicapped"	None	Annual assessment required by certified teacher or teacher from approved independent school; <i>or</i> portfolio; <i>or</i> results of standardized achievement test.	Parent of a student identified as in need of special education must demonstrate how appropriate support will be provided through the description of the minimum course of study. The child also has a right to receive special education services at the public school.
VA	(1) Individual home schools operate under home school laws/regulations (2) Groups of home schoolers may operate as private or denominational school (3) Religious exemption (4) Certified tutor	Annual notification for Option 1. No notification under religious exemption, certified tutor or private school option.	Parent must (1) hold a baccalaureate degree; (2) meet teacher qualifications as prescribed by the Board of Education; (3) enroll child in a correspondence course approved by the Superintendent of Public Instruction; <i>or</i> (4) provide evidence that parent is able to provide adequate instruction in judgment of division superintendent.	Standardized testing only required under Option 1. Results from standardized test or other evaluation approved by the division superintendent must be submitted annually and failure to progress adequately may result in probation.	None

State	Laws and Regulations Permitting Home Schooling	Notice to Public Authorities	Teacher Requirements	Documentation of Student Progress	Laws, Regulations and Guidelines on Students with Disabilities
WA	(1) Home school (2) Private school extension program	Annual notice of intent that includes whether a certified person will be supervising the instruction	Parent must either be supervised by a certified person, have 45 college credits or be deemed qualified by the district superintendent.	Assessment by standardized test or evaluation by certified person; results need not be submitted	None
WV	(1) Home school approval option (2) Home school notice option	Either use of an approved placement, or notice of intent to home school, including plan of instruction	Option 1 - parent must have a high school diploma or GED Option 2 - teacher must be qualified to provide instruction in the judgment of county superintendent and board	Option 1 - none required Option 2 – either standardized testing, portfolio, state testing or alternative assessment permissible. If adequate progress not shown, remedial help must be given and, if not corrected in two years, home schooling must cease.	Home-schooled students are considered “parentally placed in non-public school settings.” State board must develop guidelines for home schooling of special education students, including alternate assessment necessary to assure satisfactory academic progress.
WI	Home school	Annual statement of enrollment indicating requirements, including 875 hours of instruction and sequential curriculum	None	None	Districts are required to screen and evaluate and to convene an IEP meeting. Parents may refuse to participate. Districts may, but are not required to, provide services to home-schooled students with disabilities.
WY	Home school	Annual submission of basic curriculum	None	None	None

## **Appendix A**

### **OSEP Letters Pertaining to the Home Schooling of Students with Disabilities**

*OSEP Letter to Yudien, Vermont, 38 IDELR 245, March 11, 2003:* “The IDEA does not preclude a surrogate parent from removing an eligible child from a public school special education program and enrolling the child in another program, including a home study program. However, it is important to reiterate that the State has the responsibility under IDEA to ensure that the rights of the child are protected. This includes responsibility to ensure that the surrogate parent assigned to a child with a disability has no other interest that conflicts with the interest of the child and has knowledge and skills that will ensure adequate representation of the child.”

*OSEP Memorandum 00-14, 34 IDELR 263, May 4, 2000:* Question 25 - “Whether parents of home-schooled children or other representatives of home-schooled children should be considered ‘appropriate representatives’ of parentally-placed private school children with disabilities depends on whether under State law, home schooling is regarded as parental placement at private school.” Question 44 – “If the State recognizes home schools or home day care as private schools, children with disabilities in those home schools or home day care must be treated in the same way as other parentally-placed private school children with disabilities. If the State does not recognize home schools or home day care as private schools, children with disabilities who are home-schooled or in home day care are still covered by the child find obligations of SEAs and LEAs, and these agencies must ensure that home-schooled children and those in home day care who have disabilities are located, identified, and evaluated, and that FAPE is available if their parents choose to enroll them in public schools.”

*OSEP Letter to Anonymous, Maryland, 102 LRP 9191, April 27, 2000:* “If parents home school their children, and if your State’s definition of ‘private schools’ includes home schools, children with disabilities in home schools must be treated the same way as other parentally-placed private school children with disabilities.”

*OSEP Letter to Williams, Florida, 33 IDELR 249, March 24, 2000:* Regarding students with Asperger Syndrome, “If a parent chooses to home school their [sic] disabled child, you would need to consult your State regulations to determine criteria for home schooling and whether any special education and related services would be made available to the child.”

*OSEP Letter to McKethan, North Carolina, 29 IDELR 907, February 26, 1998:* “Federal funds available to the district for special education services must be equitably allocated between public school students and private school students in a way that is more or less proportionate to their numbers.”

*OSEP Letter to Sarzynski, New York, 29 IDELR 904, November 27, 1997:* “Part B and its implementing regulations do not explicitly address the obligations of school districts to provide services to home educated students with disabilities; nor does Part B define the term ‘private school or facility.’ Consequently, OSEP has advised that the determination of whether a particular home education arrangement constitutes the enrollment of a child with a disability in a private school or facility must be based on State law. If, under the law of New York State, home education constitutes enrollment in a private school or facility, then the requirements of Part B governing the obligations of school districts to parentally-placed disabled students would apply.

However, assuming a school district elects to serve a particular parentally-placed disabled student, we find nothing in Part B that would require the school district to offer services to a parentally-placed disabled student at the precise time requested by the parent.”

*OSEP, Letter to Harris, North Carolina, 20 IDELR 1225, December 30, 1993:* If parents reject the LEA’s proposed IEP and kindergarten placement, and “opt to keep the child at home and either seek no services for the child until the child attains mandatory school age or request continued special educational and related services for the child in connection with home schooling...the LEA must continue to make FAPE available to the child should the parents elect to return the child to public school...If the parent does not request a due process hearing and the home school program or day care program in which the child remains until he or she attains mandatory school age is considered a private school under State law, the nature and extent of the LEA’s obligation to provide services to the child would be governed by the provisions of Part B that are applicable to LEAs in serving children with disabilities who are placed by parents in private schools.”

*OSEP Letter to Anonymus, Washington, 20 IDELR 177, April 26, 1993:* “As we understand from your letter, your child receives home schooling for part of the school day, and attends public school on a part-time basis for the remainder of the school day...OSEP has been advised by officials that under State law, a child with a disability who attends public school on a part-time basis is entitled to receive needed special education and related services at the public school.”

*OSEP Letter to Stohrer, New Hampshire, March, 31, 1993:* “Under Part B, each State and its local school districts must make a free appropriate public education available to all eligible children with disabilities in specified age ranges... Consistent with this obligation, LEAs in New Hampshire must include home educated children in their child find activities and must make FAPE available to children eligible for Part B services who were previously home educated, should they return to public school.”

*OSEP Letter to Williams, Ohio, 18 IDELR 742, January 22, 1992:* “The determination of whether a particular home education arrangement constitutes the enrollment of a child with a disability in a private school or facility must be based on State law. If, under the law of the State, home education constitutes enrollment in a private school or facility, then the requirements of 34 CFR §300.403 and 34 CFR §300.452 would apply.”

*OSEP Letter to Farris, Virginia, 213 IDELR 142, June 24, 1988:* “Under Education of the Handicapped Act (EHA-B), public agencies are required to provide a free appropriate public education (FAPE) to all handicapped children within an agency’s jurisdiction. However, there is nothing in the EHA-B statute or regulations that indicates that FAPE requirement applicable to participating States was intended to interfere with the right of parents to educate their children at home or in a private school in accordance with their State’s provisions for these alternatives.”

*OSEP Letter to Wierda, Nebraska, 213 IDELR 148, June 6, 1988:* “Federal rules determine the right of the nonpublic school child who is handicapped and wishes to participate to have the opportunity to participate in public school services. They do not establish or eliminate any right of a parent to refuse to allow the child to participate in special education activities when the parent’s decision is that the child should not participate.”